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World Peace Foundation

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The idea of force can not at once be eradicated. It is useless to believe that the nations can be persuaded to disband their present armies and dismantle their present navies, trusting in each other or in the Hague Tribunal to settle any possible differences between them, unless, first, some substitute for the existing forces is provided and demonstrated by experience to be adequate to protect the rights, dignity and territory of the respective nations. My own belief is that the idea which underlies the movement for the Hague Court can be developed so that the nations can be persuaded each to contribute a small percentage of their military forces at sea and on land to form an *International Guard or Police Force*.—Edwin Ginn.

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# CONTENTS

---

No. 1, FEBRUARY, 1919

## Great Britain, America and Democracy

By EPHRAIM DOUGLASS ADAMS,  
*Professor of history, Leland Stanford Junior University.*

	PAGE
America ignorant of Britain . . . . .	2
Understanding Britain's point of view . . . . .	2
British for self-government . . . . .	4
Revolution affected British policies . . . . .	5
Revolution aided British democracy . . . . .	6
War in behalf of neutral rights . . . . .	7
Home development occupied both . . . . .	9
British opinions of America . . . . .	10
Liberal England and America friendly . . . . .	12
Period of irritating conditions . . . . .	13
Britain feared American democracy . . . . .	14
Slave trade caused disagreement . . . . .	16
Slavery's effect on British-American relations . . . . .	17
British rulers relieved by Civil War . . . . .	19
Believed South would succeed . . . . .	19
Saw fate of democracy involved . . . . .	20
Why Britain did not aid the South . . . . .	22
Americans failed to understand . . . . .	23
Sister democracies since 1867 . . . . .	25
America now appreciates Britain . . . . .	27

WORKS BEARING ON DIPLOMATIC TOPICS REFERRED TO . . . . .	29
----------------------------------------------------------	----

## Anglo-American Relations

By BENJAMIN RUSSELL,  
*Justice of the Supreme Court of Nova Scotia.*

1. New History of 1776? . . . . .	31
2. New Views of Revolutionary War History . . . . .	35
3. The British and American Navies . . . . .	41

OFFICIAL FRENCH COMMISSION ON THE SOCIETY OF NATIONS . . . . .	45
----------------------------------------------------------------	----

No. 2, APRIL, 1919

## Joint Debate on the Covenant of Paris

HENRY CABOT LODGE,

*United States Senator from Massachusetts, Chairman-designate of the Senate  
Committee on Foreign Relations.*

A. LAWRENCE LOWELL,

*President of Harvard University, Chairman of the Executive Committees of World  
Peace Foundation and League to Enforce Peace.*

SYMPHONY HALL, BOSTON, MARCH 19, 1919.

	PAGE
The presiding officer, His Excellency Calvin Coolidge, Governor of Massachusetts . . . . .	49
Mr. Lodge . . . . .	49
Mr. Lowell . . . . .	64
Mr. Lodge, in rebuttal . . . . .	91

No. 3, JUNE, 1919

## The Covenanter. Letters on the Covenant of the League of Nations

By WILLIAM HOWARD TAFT, GEORGE W. WICKERSHAM,  
A. LAWRENCE LOWELL, HENRY W. TAFT.

### Letter

1. Object to be attained [A. Lawrence Lowell] . . . . .	99
2. Nature of the League [A. Lawrence Lowell] . . . . .	101
3. Organs of the League [A. Lawrence Lowell] . . . . .	104
4. Sovereignty [Henry W. Taft] . . . . .	106
5. Sovereignty ( <i>continued</i> ) [Henry W. Taft] . . . . .	108
6. Constitutionality [Henry W. Taft] . . . . .	111
7. Members of the League: Articles I and II [A. Lawrence Lowell] . . . . .	114
8. The Assembly: Article III [A. Lawrence Lowell] . . . . .	116
9. The Council: Article IV [A. Lawrence Lowell] . . . . .	118
10. Voting rules: Articles V, VI and VII [A. Lawrence Lowell] . . . . .	121
11. Reduction of armaments: Article VIII [William H. Taft] . . . . .	123
12. Reciprocal concessions: Article VIII ( <i>continued</i> ) [William H. Taft] . . . . .	125
13. The principle we fought for: Article X [William H. Taft] . . . . .	127
14. Chances of war remote: Article X ( <i>continued</i> ) [William H. Taft] . . . . .	130
15. The basic principle: Articles XI, XII and XIII [A. Law- rence Lowell] . . . . .	133

	PAGE
16. Court of International Justice: Articles XIV and XV [A. Lawrence Lowell]	135
17. Sanctions behind obligations: Article XVI [A. Lawrence Lowell]	138
18. Nations outside League: Articles XVIII-XX [A. Lawrence Lowell]	140
19. Arbitration [George W. Wickersham]	143
20. Historical background [George W. Wickersham]	146
21. The Monroe Doctrine [Henry W. Taft]	149
22. The Monroe Doctrine ( <i>continued</i> ) [Henry W. Taft]	152
23. Articles XXII-XXV [A. Lawrence Lowell]	154
24. The colonial mandates [George W. Wickersham]	157
25. Labor [George W. Wickersham]	160
26. Labor ( <i>continued</i> ) [George W. Wickersham]	162
27. Conclusion [A. Lawrence Lowell]	164

---

## SPECIAL NUMBER, JULY, 1919

### China, The United States and the War

By KENNETH SCOTT LATOURETTE,  
*Professor of history, Denison University.*

Civil strife and weakness	168
Independence partially lost	170
Map: Spheres of Influence	171
Causes of weakness	172
Japan's attitude toward China	174
Japan's demands in 1915	176
China yielded to Japan	178
Japan's later gains	178
Japan's power in China	180
Internal dissension a weakness	181
War started new struggle	182
Tried to satisfy military chiefs	183
Entered war against Germany	185
World concerned in country's future	186
Constructive forces need aid	188
America's later services to China	189
United States advised joining Allies	190
Aid republic to stand alone	190

## APPENDIX

### I. CHINO-JAPANESE NEGOTIATIONS, 1915-1918:

I. Japan's 21 demands	192
-----------------------	-----

	PAGE
2. Arrangements of May 25, 1915:	
<i>a.</i> Treaty respecting the Province of Shantung . . . . .	195
<i>b.</i> Exchange of notes respecting Shantung . . . . .	197
<i>c.</i> Treaty respecting South Manchuria and Eastern Inner Mongolia	198
<i>d.</i> Exchange of notes respecting mines in South Manchuria . . .	200
<i>e.</i> Exchange of notes respecting railways and taxes in South Man- churia and Eastern Inner Mongolia . . . . .	201
<i>f.</i> Exchange of notes respecting the employment of advisers in South Manchuria . . . . .	202
<i>g.</i> Exchange of notes respecting the matter of Han-yeh-ping . .	202
<i>h.</i> Exchange of notes respecting the Fukien question . . . . .	203
3. Chengchia Tun negotiations, 1916-1917 . . . . .	204
4. Military agreement, May 25, 1918 . . . . .	207
5. Chino-Japanese documents published in Paris:	
<i>a.</i> Chinese foreign minister to the Chinese delegation to the Inter- allied Peace Conference . . . . .	209
<i>b.</i> Exchange of notes respecting Manchurian railways . . . . .	210
<i>c.</i> Exchange of notes respecting Shantung railways . . . . .	210
<i>d.</i> Exchange of notes on the administration of Shantung . . . .	211
6. Statement of Viscount Uchida, Japanese foreign minister, to the Imperial Diet, January 21, 1919 . . . . .	212
II. RUSSO-JAPANESE NEGOTIATIONS:	
1. Treaty between Russia and Japan respecting China, July 3, 1916 .	214
III. JOINT ALLIED NOTE PROTESTING AGAINST CHINA'S INACTIVITY IN THE WAR, PRESENTED OCTOBER 29, 1918 . . . . .	215
IV. POLICY OF THE UNITED STATES:	
1. Secretary of State Hay's circular note on the Open Door in China, 1899 . . . . .	217
2. Circular note to the powers co-operating in China, defining the purposes and policy of the United States . . . . .	218
V. UNDERSTANDING AMONG THE ALLIES:	
1. The British ambassador at Tokyo to the Japanese minister for for- eign affairs . . . . .	219
2. The Japanese minister for foreign affairs to the British ambassador at Tokyo . . . . .	220
3. The Japanese minister for foreign affairs to the Russian and French ambassadors . . . . .	220
4. The French ambassador at Tokyo to the Japanese minister for for- eign affairs . . . . .	221
5. M. Krupensky, Russian ambassador at Tokyo, to the Russian minister for foreign affairs . . . . .	222

	PAGE
6. Same to Same . . . . .	223
7. Same to Same . . . . .	223
VI. STATUS OF SHANTUNG:	
1. Treaty of peace with Germany ( <i>excerpt</i> ) . . . . .	224
2. Chino-German convention, March 6, 1898 . . . . .	225

---

No. 4, AUGUST, 1919

## Latin America and the War

By PERCY ALVIN MARTIN,

*Associate Professor of History, Leland Stanford Junior University.*

Two active participants . . . . .	228
Self-preservation an incentive . . . . .	229
Clerical pro-Germanism . . . . .	231
BRAZIL AND THE WAR . . . . .	233
Brazilian indignation increased . . . . .	234
Ruy Barbosa's eloquent indictment . . . . .	235
Public opinion supported government . . . . .	237
Precautions against Germans . . . . .	241
Extensive war-time measures . . . . .	243
Added to Allied food supply . . . . .	244
CUBA . . . . .	245
Political rivalries adjourned . . . . .	247
Propaganda neutralized . . . . .	248
ARGENTINA . . . . .	249
Reasons for remaining at peace . . . . .	251
Resentment followed disclosures . . . . .	254
CHILE . . . . .	255
Press showed changed attitude . . . . .	257
THE REMAINING SOUTH AMERICAN REPUBLICS . . . . .	258
Uruguay's remarkable record . . . . .	259
THE CARIBBEAN REPUBLICS . . . . .	261
MEXICO . . . . .	263

THE UNITED STATES AND LATIN AMERICA . . . . .	PAGE 265
BIBLIOGRAPHY . . . . .	267
BOOKS ON THE LEAGUE OF NATIONS . . . . .	269

---

No. 5, OCTOBER, 1919

**Labor in the Treaty of Peace. Part XIII of the Treaty of Peace with Germany**

I. Before the War . . . . .	271
II. The Peace Conference appoints Commission . . . . .	280
III. The Commission reports to the Conference . . . . .	283
IV. Adoption of international labor guaranties . . . . .	293
V. Peace Conference adopts text . . . . .	300
VI. Text of the Labor Section of the Treaty . . . . .	310
VII. Germany's effort to change the provisions . . . . .	324
VIII. Preparations for the Conference . . . . .	338

---

No. 6, DECEMBER, 1919

**The Constitution of the German Commonwealth**

TRANSLATED BY WILLIAM BENNETT MUNRO AND ARTHUR NORMAN  
HOLCOMBE,

*Department of Government, Harvard University.*

INTRODUCTION:

The German Revolution . . . . .	343
Election of a Constitutional Convention . . . . .	345
The Constitutional Convention . . . . .	346
Organization of the Provisional Government . . . . .	347
Adoption of the permanent Constitution . . . . .	348
Terminology of new Constitution . . . . .	350
GLOSSARY . . . . .	352

THE CONSTITUTION OF THE GERMAN COMMONWEALTH.

TRANSLATED BY WILLIAM BENNETT MUNRO AND ARTHUR  
NORMAN HOLCOMBE.

CHAPTER I. Structure and functions of the Commonwealth

Section I. Commonwealth and States . . . . .	353
Section II. The National Assembly . . . . .	359
Section III. The National President and the National Cabinet . . . . .	364
Section IV. The National Council . . . . .	368

	PAGE
Section V. National legislation . . . . .	370
Section VI. The national administration . . . . .	373
Section VII. The administration of justice . . . . .	380
CHAPTER II. Fundamental rights and duties of Germans	
Section I. The individual . . . . .	382
Section II. Community life . . . . .	384
Section III. Religion and religious societies . . . . .	387
Section IV. Education and schools . . . . .	389
Section V. Economic life . . . . .	392
Transitional and final provisions . . . . .	397

---

## SPECIAL NUMBER, FEBRUARY, 1919

### Constitution of the League of Nations

Organization of the commission . . . . .	401
Report read at the plenary session of the Interallied Peace Conference, Paris, February 14, 1919, by Woodrow Wilson, president of its Commission on the League of Nations, delegate of the United States . . . . .	403
Address of Mr. Wilson . . . . .	416
Address of Lord Robert Cecil . . . . .	422
Address of Signor Orlando . . . . .	424
Address of Léon Bourgeois . . . . .	426
Address of Mr. Barnes . . . . .	430
Address of Baron Malkino . . . . .	432

---

## SPECIAL NUMBER, JUNE, 1919

### Treaty of Peace with Germany

I. Official Summary of the Text Presented to the German Delegates by the Allied and Associated Powers, Versailles, May 7, 1919 . . . . .	433
II. Covenant of the League of Nations . . . . .	477
III. Resolution of indorsement . . . . .	493

# LEAGUE *of* NATIONS

Vol. II, No. 1

February, 1919

## GREAT BRITAIN, AMERICA, AND DEMOCRACY

*By*

EPHRAIM DOUGLASS ADAMS

*Professor of European history,  
Leland Stanford Junior University*

## ANGLO-AMERICAN RELATIONS

*By*

BENJAMIN RUSSELL

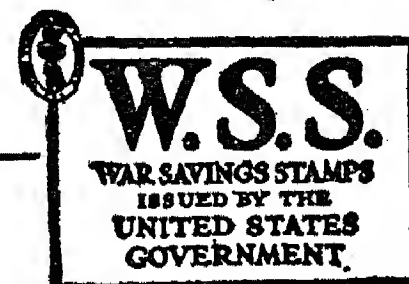
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# CONTENTS

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## GREAT BRITAIN, AMERICA, AND DEMOCRACY

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	PAGE
America Ignorant of Britain . . . . .	2
Understanding Britain's Point of View . . . . .	2
British for Self-Government . . . . .	4
Revolution Affected British Policies . . . . .	5
Revolution Aided British Democracy . . . . .	6
War in Behalf of Neutral Rights . . . . .	7
Home Development Occupied Both . . . . .	9
British Opinions of America . . . . .	10
Liberal England and America Friendly . . . . .	12
Period of Irritating Conditions . . . . .	13
Britain Feared American Democracy . . . . .	14
Slave Trade Caused Disagreement . . . . .	16
Slavery's Effect on British-American Relations . . . . .	17
British Rulers Relieved by Civil War . . . . .	19
Believed South would Succeed . . . . .	19
Saw Fate of Democracy Involved . . . . .	20
Why Britain Did Not Aid the South . . . . .	22
Americans Failed to Understand . . . . .	23
Sister Democracies since 1867 . . . . .	25
America now Appreciates Britain . . . . .	27
WORKS BEARING ON DIPLOMATIC TOPICS REFERRED TO IN THIS ARTICLE .	29

---

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OFFICIAL FRENCH COMMISSION ON THE SOCIETY OF NATIONS . . . . .	45
----------------------------------------------------------------	----

## AUTHOR'S PREFATORY NOTE

The author of this article, as an historical student, for the last 15 years has been pursuing as his special field of investigation, writing and teaching, the subject of British-American relations. For the period since 1815, he has studied the printed sources of diplomatic history in the United States Documents and in the British Parliamentary Papers, in the works of the statesmen directing British or American diplomacy; and in the unprinted manuscript materials in the Department of State at Washington, and the Public Record Office at London, up to 1860. For the public, as differentiated from the official, British attitude he has examined the leading British newspapers and reviews, and has read some 400 volumes of the works of British travelers in America. These things are stated as evidence that this article is at least based on informed and not haphazard judgment. Here he proposes to summarize his conclusions as to the justice of the American traditional attitude toward Great Britain and to state what, in his opinion, has been the basic cause of difference between the two nations. In the present article footnote citations and references are inappropriate and are therefore omitted, but a brief bibliography of useful works is placed at the end.

# GREAT BRITAIN, AMERICA, AND DEMOCRACY.

BY EPHRAIM DOUGLASS ADAMS,

*Professor of history, Leland Stanford Junior University.*

When the European war began in 1914, the American people were uninformed as to its causes, largely indifferent to its outcome, and, save for certain vague historical sympathies with France and animosities toward Great Britain, were mainly influenced by a desire to keep out of the conflict. A few in America early took sides and expressed positive opinions as to where justice lay in the European struggle, but these few were from the well-informed elements of our population. The simple fact was that as a nation we were profoundly ignorant of Europe's history, political and social conditions, and national ambitions. America had long prided herself that she was removed from the turmoil of European politics and could preserve in peace a policy of isolation. It followed that even the very ignorance of European conditions was in some degree a matter of pride.

As the European war developed, all this was rapidly altered—rapidly from the point of view of Americans, slowly from that of the Allies, who will never understand our attitude while still neutral unless they appreciate our profound ignorance of Europe. But the American has in all things an insistent desire to know where justice lies, that he may be guided by that knowledge. In spite of momentary departures, this principle of action runs as a central thread throughout all his history. Ultimately, justice was seen to be on the side of the Allies and it needed but the touch of an offensive German attack on American national honor to throw the country enthusiastically into the war on the Allies' side. Emotionally and spiritually America had come, by 1917, to take her stand with Great Britain, France, Italy and the other nations grouped in resistance to German ambitions and German theories.

## AMERICA IGNORANT OF BRITAIN

Thus knowledge came to America upon the general issues of the war, and she sympathized, in the main, with the objects and purposes of her associates. But she was, and still is, ignorant of their present-day national institutions and characteristics; and, especially, America in the mass is ignorant of modern Britain. To America, Britain was for long our "hereditary foe," the country against whom our "militant patriotism" was expressed, since she was the only nation of real power with whom we had fought. In diplomacy Britain was the only nation with which we seemed constantly to be having disputes, owing to the fact that she, again, was our only neighbor of power,—in Canada and in West Indian waters. Still further America, by reason of the welcome extended to great numbers of Irish immigrants, and the observation that these immigrants became acceptable, law-abiding, patriotic American citizens, was unable to understand the age-long conflict between the British Government and the Irish people, and became penetrated with the vague, yet no less positive, feeling that essential justice was still denied to Ireland. But most of all America has remembered and dwelt upon the British attitude and action during the Civil War, when British statesmen, mainly sympathetic with the South, preserved a cold neutrality, yet hoped for Southern victory.

This brief analysis of the main conditions of the traditional American attitude toward Britain is evidence that Americans are still thinking in terms of the past and not of the present; but are they thinking justly even in terms of the past? This is the question which the American of to-day should put to himself, and upon which he should seek to form an intelligent, not a traditional, opinion.

## UNDERSTANDING BRITAIN'S POINT OF VIEW

First of all, however, a very simple, yet a very essential, rule of historical judgment must be stated; which is, that, to arrive at anything like a correct and fair understanding of another's actions,

one must strive to "put himself in that other's place." We in America have been too prone to assume our own attitude, to think only of our own conditions, and thus to judge Britain by our own standards. This is easy and natural, but it is not likely to bring correct knowledge. Let us see, then, what judgments we shall reach if, in each important period of British-American relations, we seek to place ourselves in the position of the British Government and the British people.

In 1776, when America declared her independence from Great Britain, the intelligent Englishmen had already taken sides in a home contest over the very question of self-government which the American colonists put forward as their justification for revolution. George III had come to the throne in 1760 with the definite purpose of breaking down those liberal and parliamentary institutions already developed which hampered royal authority. His predecessors had ruled by the consent of Parliament, whose members were, it is true, chosen by the vote of a very small proportion of the people, so that Parliament expressed the will of the aristocracy and land-owners alone; but they also held the belief that a king must rule in accordance with the will of the legislature. George III set himself to overthrow this control by an elected Parliament, and step by step had advanced toward his plan of personal rule.

Modern English historians unite in depicting the king as responsible for the disruption of the British Empire. "He rooted out courage, frankness and independence from the councils of state, and put puppets in the place of men" (Trevelyan); "his acts were as criminal as any which led Charles I to the scaffold" (Lecky); Lord Bryce, in an address in London, July 4, 1918, celebrating the American Declaration of Independence, asserted that England in 1776 was ruled by a "royal personal government and a non-representative Parliament." Four years earlier, in 1914, the same distinguished friend of the United States wrote that "if the Government of Britain had been as popular in 1776 as it was in 1876 the North American colonies would not have been alienated."



## BRITISH FOR SELF-GOVERNMENT

Those who opposed royal absolutism proclaimed the rights of self-government, of "no taxation without representation"; demanded, in effect, that the ministers of the state, though in form appointed by the king, should in reality hold office, only so long as they carried out the wishes of Parliament. Political parties in Britain were called Tory and Whig, respectively, and while the line of cleavage was based on various quarrels of long standing, the basic difference between Tory and Whig was that the former would have magnified royal authority, while the latter opposed it.

By 1776, however, the contest had become one between the "King's Friends" and those who earnestly sought to preserve the "liberties of the people." Thus, the first step in the progress toward democracy, even though the ultimate goal was not clearly seen, was being fought out in Britain at the very moment when the American colonies declared themselves independent and justified their revolution, not so much on specific acts of tyranny as on a theory that they were entitled to self-government. It followed, naturally, that clear-thinking British statesmen saw in the American revolution an important and very likely a decisive factor in the political controversy in home politics. Burke and Fox upheld the American cause. The elder Pitt (Lord Chatham), in the debate upon the repeal of the stamp tax, said: "I rejoice that America has resisted. Three millions of people so dead to all the feelings of liberty as voluntarily to submit to be slaves, would be fit instruments to make slaves of the rest. America, if she fell, would fall like a strong man. She would embrace the pillars of the state, and pull down the constitution along with her." The "King's Friends" on the other hand were for vigorous suppression and punishment of the colonial revolution; and, because of the purely patriotic dislike of seeing a part of the British Empire cut away, they gained, temporarily, the support of the bulk of those Englishmen who had any active voice in legislative matters. But from some Tories and from more Whigs came the cry that America was but seeking to establish a principle of self-govern-

ment dear to the hearts of Englishmen and of first importance in the existing controversy with the king. For years after the American revolution a leading Whig journal (the *Independent Whig*) kept standing in big type at the top of the first page of each issue, this quotation from a speech in Parliament by Lord Chatham during our revolution:

“It was the glorious spirit of Whiggism which animated millions in America to prefer Poverty *with* Liberty to gilded chains and sordid affluence, and to die in Defense of their Rights as *Men*,—as FREEMEN! What shall resist this spirit?”

### REVOLUTION AFFECTED BRITISH POLITICS

Thus, the American revolution had a much larger importance to Great Britain than the question of whether a section of the British Empire had a right to cast off its allegiance to the mother country and rule itself. The “King’s Friends” organized armies and dispatched troops to America with an eye anxiously turned to home conditions, judging rightly that, if America were not forced to submission, the end of the personal and autocratic rule of George III would come. When, after seven years of war, it became evident that America could not be subdued, the effect was immediate in British politics.

Lord North received the news of the surrender of Cornwallis at Yorktown “like a bullet in the heart.” The House of Commons resolved that it would “consider as enemies to his Majesty and to this country all those . . . attempting the further prosecution of offensive war on the continent of North America, to the purpose of reducing the revolted colonies to obedience by force.” Ministers resigned, acknowledging their failure. The king was forced to appoint men to office who had long asserted the principle of parliamentary government and the leaders were Whigs friendly to the American cause, a fact not to be forgotten in considering the remarkable generosity of the British Government in making a peace by which the new American states received a territorial status far beyond the hopes or expectations of the American people. The seed of democracy had long before this germinated in British



institutions. Its earlier development in British soil (as essential to America as to Britain) we have not discussed; but in 1776 that seed had become a vigorous tree in America, while as yet it was but a delicate plant in Britain. It was much clearer to British than to American statesmen that the American revolution was a contest for principles of government applicable and desirable in Britain herself. Thus America was *right* both for herself and for the mother country, and justly prides herself on her leadership in that democracy which has resulted from her revolutionary action; but Americans should understand and remember that the very principles which led their ancestors "to die in Defense of their Rights as *Men*,—as FREEMEN," received the applause and the support of those Englishmen who shared the democratic vision.

#### REVOLUTION AIDED BRITISH DEMOCRACY

The American revolution is the starting point of a vigorous (though not the first) contest in Great Britain for the establishment of British democracy. With independence secured in 1783, America became the exemplar of the new democratic principles of government, and from that moment the whole attitude of the British Government and people toward America is determined, at bottom, by their own desires and inclinations as to democracy. This is the key to British policy toward America. In a short survey there is not space for an examination of each incident and episode of British-American relations; but the main facts of those relations may be so stated as to justify the contention that the question of expanding democracy—the fact that America was its exponent for Britain herself—decided the British attitude toward America.

The War of 1812-14 was one in which America engaged, against an arrogant belligerent, in defense, so she asserted, of neutral rights,—though those neutral rights were mostly contentions, not yet accepted and established in international law. America claimed for neutral nations privileges in trade which neither Britain nor France as belligerents were willing to concede. America insisted that a belligerent blockade, to be respected by

the neutrals, must be made effective by a squadron of vessels sufficiently powerful to prevent the ingress or egress of vessels of commerce,—a doctrine not incorporated in international law until much later. Britain denied the right of a citizen to “alienate his duty” and sought to recover runaway sailors by taking them from American ships—thus exercising the “impressment” she used on her own soil, by means of a “right of search” of American vessels. The American theory that a man could change his citizenship was new, and was then specifically denied by the European states. It lay at the bottom of the whole “right of search” controversy of 1812. But our concern here is not so much with these contentions in regard to international law as it is to examine the general British position.

In 1793 Britain had gone to war against revolutionary France on the alleged principle of “good faith” as applied to treaties previously signed by all the powers of Europe in relation to the status of the river Scheldt, in what is now Belgium. The details are unimportant, but it is interesting to note that Britain had a justifiable ground for war in a French violation of a long-standing international agreement. In fact, however, Britain went to war to check the expansion of the French revolution to other countries and especially to prevent the spread of a revolutionary democracy on her own soil,—for there was in England a strong radical movement sympathizing with the idealism of the French revolution. Aristocratic and autocratic toryism in Britain feared the spread of French sentiments at home. As the European war progressed, however, as a military despotism usurped authority in France, and as Napoleon began to dream of creating a European empire, the British nation became united in self-defense. Britain became the leader in the efforts of Europe to defeat the Napoleonic project of world empire.

#### WAR IN BEHALF OF NEUTRAL RIGHTS

In that European contest America at last became involved on what she chose to call her neutral “rights”—though these were as yet mainly “contentions” of what ought to be. America

declared war on Great Britain as the belligerent which had most effectively disregarded our "rights"—though France was equally opposed and equally offensive in so far as she could control the seas. America chose to disregard the great issue of the European war, which was the issue of world empire. From the British point of view the American attack was but a minor irritant added to the great continental conflict; yet America was no sooner in the war than there arose in Great Britain a shout from the extreme Tories that now the chance had come to deal a death blow not only to Napoleon's imperialistic ideas, but also to democracy, since America represented democracy as a political ideal and force contrary to British convictions.

The London *Times*, long the leader of aristocratic political philosophy and opinion, though at the moment in political opposition to the ministry, printed editorials urging the government to "finish with Mr. Bonaparte and then deal with Mr. Madison and democracy." In June, 1814, the *Times* asserted that England ought to "maintain the doctrine of no peace with James Madison;" and in October that it should be England's object to subvert "the whole system of the Jeffersonian school." Thus there was an element in Great Britain that saw a chance, and was inclined to take it, to throttle American democracy as the new and dangerous element in the society of nations.

Why, then, did not Britain, triumphant at last over Napoleon, seriously punish America? For in spite of a few victories in naval duels and of Jackson's victory at New Orleans, America was pretty badly whipped by 1814. There were several reasons for a British policy of reconciliation with America, but among others, and as influential as any, was the Whig party's opposition to any punishing of America, or to any effort to strike a blow at the American system of government. Castlereagh's original instructions to the British peace commissioners forbade any concession on impressment or maritime law; American shore privileges in the Newfoundland fisheries must be given up; the boundary was to be altered so as to provide an all-British military road from Quebec to Halifax; the Great Lakes were not to be used by American naval vessels, thus insuring their domination by the British; the

free navigation of the Mississippi was to be accorded by the United States so that England might have access to the western Indian country; and the Indians were to be included in the treaty in such a way as to guarantee the integrity of their territory located within United States boundaries, by a virtual British protectorate.

But Whig leaders notified the Tory Government that they would not longer support that government in its war measures if America were dealt with in this extreme manner. The simple fact was that again American democracy, for the British, had become a question of British home political theory and practice, and that again the British liberals had come to the defense of democratic institutions. The Tory Government gave up its intended punishment of America and the treaty of peace ignored the alleged causes of war and simply made peace.

#### HOME DEVELOPMENT OCCUPIED BOTH

The period from 1815 to 1844 is, on the whole, one of little serious friction between America and Britain. True, there were controversies over West Indian trade, fisheries, the Maine boundary, and other matters of less importance; but in all of these controversies one sees the Anglo-Saxon love of legal argument and forensic contention rather than the joining of issues likely to lead the two nations to war. In truth, America and Britain were each too busy in home development to have time or inclination for militant antagonisms.

America was experiencing that wonderful industrial and spiritual change that came with the sense of nationality in 1815, and with the increasing movement of population to the new West. Across the Appalachian range where, in 1790, there had been but 100,000 people, there were in 1832 some 4,000,000,—more than the total population of the United States when the peace of 1783 was signed. America was also rapidly changing in political conceptions, progressing toward a democracy based on the will of all the people, instead of one in which a minority of intelligence and wealth controlled and directed the affairs of the nation.

This change was accomplished, so it was felt, when Andrew Jackson was elected President in 1828.

In Great Britain this same principle of an expanded democracy was being contested, and the vital fact of British-American relations from 1815 to 1844 is the British Reform Bill of 1832,—though that fact nowhere appears above the surface in the diplomatic correspondence of either country. From 1815 to 1832 British liberal opinion pressed with increasing vigor for a political reform that should expand the franchise and remodel the representation in Parliament more nearly on lines of population. To every Englishman, whether Whig or Tory, the American democracy became an example to be studied, and to every British traveler it became a question whether he should write America “up” or “down,” his decision almost uniformly being in accordance with what he wanted at home—an old type aristocratic government or a new type one based on some approach to democracy.

#### BRITISH OPINIONS OF AMERICA

Melish, a Scotch Whig, wrote of America: “A republican finds here a Republic, and the only republic on the face of the earth that deserves the name, where all are under the protection of equal laws—of laws made by themselves.” Lieutenant Francis Hall notes that “laborers have not yet discovered the necessity of yielding nineteen parts of their earnings to the government to take care of the remaining twentieth.” Morris Birkbeck, an emigrant farmer, objected in England to “being ruled and taxed by people who had no more right to rule and tax us than consisted in the power of doing it”; and in America asserted: “I *love* the government . . . and thus a new sensation is excited; it is like the development of a new faculty. I am become a patriot in my old age.” A letter home, printed in the *Edinburgh Scotsman*, March, 1823, says: “I am here, lord and master of myself and of 100 acres of land—an improvable farm, little trouble to me, good society and a good market. . . . The parson gets nothing from me; my state and road taxes and poor rates amount to \$25 per annum. I can carry a gun if I choose; I leave my door



unlocked at night; and I can get snuff for one cent an ounce or a little more."

The Tory writers presented quite another picture, found flaws in society and government and warned Englishmen against admiration of things American. The best observer of this group, Captain Basil Hall, writing in 1829, reveals in every line the old Tory of the twenties complacently convinced of the perfection of the British constitution. He cannot conceive of any real sympathy, even, between the two nations. "My opinion now is that while each of our governments retains its present character, any closer intimacy between us is not likely to spring up,"—a very clear appreciation of the importance of the question of democracy as decisive in international relationships. Hall's own faith in aristocratic government is summed up in his quotation from the thirty-eighth chapter of Ecclesiasticus, in the Apocrypha:

The wisdom of a learned man cometh by opportunity of leisure: and he that hath little business shall become wise. How can he get wisdom that holdeth the plough, and that glorieth in the goad, that driveth oxen, and is occupied in their labors, and whose talk is of bullocks?

Most of the travelers were Tories and most of the books were therefore unfriendly to American institutions and people. The writers sought to find flaws; and, far more than diplomatic quarrels, they irritated Americans, who did not understand that this writing was for effect upon a political situation at home.<sup>1</sup>

Such travelers' books could affect only the reading public; but American democracy had its influence also, in a minor degree, on the uneducated emigrant from Britain. In 1826 a British parliamentary committee took testimony on the causes and conditions of emigration to America. The fat volume in the Parliamentary papers in which this testimony is printed, with letters home from those who had gone to America, does not so much emphasize political liberty as a cause of emigration, as it does bring out that the emigrant, arrived in America, was instantly impressed with his physical well-being and with the social democracy that existed.

<sup>1</sup> For an analysis of some of the principal British writers between 1810 and 1860 see the author's article "The Point of View of the British Traveler in America," *Political Science Quarterly*, June, 1914.

He writes back that he has "three meat meals a day," and that, if a farm laborer, he "sits down at meals with the family" of his employer. There was a very confused notion as to how far this betterment of conditions was or was not due to democratic institutions; but the fact remains that the British laborer believed that somehow democracy and improved industrial conditions went hand in hand. The very statistics of British emigration to America show this, and show the relation of America in the British mind to the struggle for the reform bill of 1832. That emigration had been steadily growing from 1815 to 1828, when it reached the annual total of 17,840. But in 1829, when the liberal political movement in Britain gave hope, it dropped to 10,594; and in 1830, when liberal victory seemed certain, to 3,874.

#### LIBERAL ENGLAND AND AMERICA FRIENDLY

Thus again the attitude toward America and American democracy was a question of British home politics. After 1832, until 1844, Jacksonian democracy in America and Liberalism in Britain made relatively easy sailing between the two nations. True, in the Canadian rebellion of 1837 Americans along the border, restless and unemployed because of our financial crisis of that year, attempted various incursions into Canada in aid of the Canadian revolutionary movement.

A governor of Upper Canada, Sir Francis Bond Head, old Tory to the backbone, had given some cause for American irritation. His first dispatch home after appointment, describing his arrival at Toronto, states that "strong republican principles have leaked into the country from the United States"; and in May, 1836, in a public address to the "loyal electors" of the province, he concluded: "The people of Upper Canada detest Democracy; they revere their Constitutional Charter, and are consequently staunch in allegiance to their King. They are perfectly aware that there exist in the Lower Province one or two Individuals who inculcate the Idea that this Province is about to be disturbed by the Interference of Foreigners, whose Power and whose Numbers will prove Invincible. In the name of every Regiment of Militia in

Upper Canada I publicly promulgate—*Let them come if they dare!*" For this speech, however, Head received a prompt reproof from the British Colonial Office, and during the crisis in Canada America amended her neutrality laws so as to permit our national Government to exercise an effective restraint over those of our adventurous citizens who itched to meddle in Canadian politics.

### PERIOD OF IRRITATING CONDITIONS

But with 1844 there began the most irritating and dangerous period of international relations, due to conditions and tendencies that developed in either country.

America by 1844 had come to the high point of ~~her~~ expansion and "manifest destiny" fever. A continuous and wonderful movement of population west and southwest had carried American institutions and industry across the Mississippi, and already new tendrils of this growth were stretching out toward Oregon in the Northwest, and Texas in the South. The former territory was in dispute between Great Britain and the United States; the latter was a part of the Republic of Mexico, in which state British influence had long been predominant, and where the great Tory statesman of the twenties, George Canning, had hoped to develop a nation under British guidance capable of acting as a barrier and a check to American influence in the New World. This policy, had it been continued by later British statesmen (says Temperly, the most recent biographer of Canning), must inevitably have resulted in a clash with America. Fortunately, succeeding foreign ministers abandoned the policy of opposition to America, though Mexico was still largely under British tutelage.

American slavery had expanded rapidly with the tremendous increase of cotton production and manufacture, and the slave interests of America were demanding additional territory; their hopes were fixed on Texas and even upon Central America. Still more powerful in its effect on this "expansionist" fever was the new sense of a special "destiny" for America—a "manifest destiny" that should carry American sovereignty to the Pacific as well as extend American institutions to contiguous nations. This



sentiment was not confined to the slave-owning sections; it was general throughout all sections, save, possibly, in the New England states. America was intoxicated with her success in so rapidly having become a great and powerful nation. She was bumptious and arrogant in expressing her sense of power; and, feeling that somehow democracy was responsible for this advance in power, she was not hesitant in declaring hers to be the "advancing" civilization, and that of the old-world nations to be "decadent."

Great Britain, in 1844, had gone into political reaction, and it was this fact that determined her attitude toward America. The force of the liberal movement of 1832 had waned; indeed the very men who had been responsible for that movement were now opposed to any further extension of democracy. To them the "Great Reform Bill" of 1832 was a final step in democratic experiment, beyond which it would be unsafe and unwise to go. In this sense Lord John Russell defined his position, and in political slang became "Finality John." For the time being then both Tory and Whig aristocracy were united in the determination to hold political institutions where they were; and, in spite of the great step forward in 1832, Britain was still far from being a democracy, was still a nation ruled by its aristocracy and its wealth. Such a condition, however, did not satisfy the unenfranchised, the great majority of the British people, and this majority, now better educated and better informed, naturally looked toward America as the democratic model of what they desired.

### BRITAIN FEARED AMERICAN DEMOCRACY

The result of this British home situation was that the mere fact of the rapid advance of America in prosperity and in power had a decided interest for the "finality" aristocratic ruling classes in Britain. They disliked that advance and feared it; not primarily because of any fear of America as a rival nation; nor because of any fear of loss of colonies, such as Canada; nor even of loss of trade, such as that with Mexico. For Britain in the forties was careless of colonies and thought indeed that they were no asset,

but a burden. Stanley, the British colonial secretary in 1841, emphatically notified Minister Pakenham in Mexico that he was "not anxious for the formation of new and distant colonies." Aristocratic Britain feared rather the influence of American power and prestige as a democracy.

Again, the British travelers in America wrote with the idea of influencing home conditions. Captain Marryat in six volumes of lively description attacked American society and institutions. In the preface he wrote: "I candidly acknowledge that . . . my great object has been to do serious injury to the cause of democracy." Alexander Mackay in his *Western World* applauded our idealism and institutions as fit models for Europe. "Society in America," he asserted, "started from the point to which society in Europe is only yet tending. The equality of men is, to this moment, its cornerstone." The power of American democracy alarmed the British Tory. George Warburton, annoyed and startled at the growth and prosperity of the United States, undertook in his *Hochelaga* to open the eyes of his countrymen to the danger in the West. "They only wait for matured power," he wrote, "to apply the incendiary torch of republicanism to the nations of Europe."

But the mere size of the United States brought to these alarmed Englishmen the comforting reflection that soon there must be a breaking up of the union into several nations. This was an opinion long held. In 1830 the *Times* had said: "We might as well dream of all Europe constituting everlastingly a single government, as fancy that such a territory, and such a variegated people as those of the United States, could go on much longer under the name of a single commonwealth." In 1845 the foreign secretary, Lord Aberdeen, in a confidential dispatch to Elliot, the British chargé in Texas, held the same view, prophesying civil war in America as a result of territorial expansion. He believed that at least three distinct nations were inevitable—a northern, a southern and a western. From 1830 on, in short, the question of whether or not the new-world democratic experiment could achieve and maintain power, was one which held the attention of both Tory and democrat in Britain, and was clearly recognized

as having a bearing on the development of British political institutions.

### SLAVE TRADE CAUSED DISAGREEMENT

But there was one American institution, slavery, that damned American democracy in the eyes of all humane and right-thinking men; and the British people had long been intensely aroused against slavery and the African slave trade. This last was now being revived and became a constant source of irritation between Britain and America, since the latter country, professing a horror as great as Britain's of the African slave trade, yet hampered British efforts to suppress it, by a captious (so it seemed to the British) resentment of the "right of search" exercised by British cruisers in the case of suspected slave-trading vessels flying the American flag.

Right of search for the impressment of seamen, though not disavowed by Great Britain, had not been used since the peace of 1814, but the right of searching (or "visiting") professed merchant vessels to make sure that they were not slave traders was claimed by Britain to be a necessity if efforts to suppress that trade (now condemned by all civilized nations) were to be effective. Many European nations had signed treaties with Great Britain giving mutual right of search to each other's naval vessels; but America refused to do this, and consistently objected to any search of a *bona fide* American ship. The result was that slave traders, of whatever nationality, sought safety by hoisting the American flag. The British cruiser, under orders to arrest a slave trader and bring him before an international court for trial, had to take the risk, therefore, of boarding by mistake as to character an innocent American merchant vessel, or of seeing guilty slave traders sail by in immunity. American irritation over the earlier "right of search" troubles was in the forties still a very genuine one,—was still identified in American popular feeling with the sense of national dignity and self-respect; and no American Government would then have ventured to sign with Britain a treaty of mutual right of search. Yet here was a very genuine humanitarian service, in which the whole British nation,

of all classes, was deeply interested, likely to be blocked by American sensitiveness about the "right of search"—a relic of the war of 1812.

### SLAVERY'S EFFECT ON BRITISH-AMERICAN RELATIONS

It would be an unjust accusation to say that the British Government of the forties and fifties made use of the African slave trade and right of search questions to keep before the eyes of the British people an obnoxious quality of American democracy. In fact, they had no need to stir these questions; yet their existence was an advantage to the aristocracy of Great Britain, which wished to keep things as they were. Also, quite distinct from the African slave trade stood American slavery, a domestic institution difficult to explain in a "democracy" and an obstacle to British acceptance of American political ideas. Slavery and increase of slave territory were good ground for British opposition to American territorial expansion, yet the British Government never formally and officially put forward such an argument. Rather, such steps as were taken were based on rights of existing nations. Thus, in relation to Texas, the British Government at first disliked the revolution by which that state became independent of Mexico, but later hoped to see established a powerful independent Texas, which should block American power.<sup>1</sup> A little later, when it became evident that American "manifest destiny" would soon demand California, the British Government's idea was to encourage the people in California to set up for themselves, and not be absorbed in the Great Republic. There was no thought here of British acquisition. Lord Aberdeen wrote, December 31, 1844, to the principal British agent for the Californias: "It is entirely out of the question that her Majesty's Government should give any countenance to the notion which seems to have been agitated of Great Britain being invited to take California under her protection;" but at the same time gave instructions to use every effort to persuade the province, "if it should

<sup>1</sup> See the author's book, *British Interests and Activities in Texas, 1838-1846*, Johns Hopkins Press, 1910. The documents drawn from the British Public Record Office, upon which this work is based, have since been edited by the author and published by the Texas State Historical Association under the title *British Diplomatic Correspondence Concerning the Republic of Texas, 1838-1846*, 636 p.

throw off the Mexican yoke, not to assume any other which might prove inimical to British interests." The thought was, primarily and throughout, dislike of the growing power and size of America as a democracy. For in spite of all her shortcomings, in spite of the institution of slavery, the American democratic ideal had a glamour for the British public that worried British statesmen, determined though they were that a similar democracy should get no further foothold in British institutions. That glamour,—that popular liking for America and pride in her as an offspring of the British people,—was a decided influence upon the British Government in forcing it to a peaceable adjustment of the Oregon question, at the moment when that question seemed likely to bring on war.

In the later forties and during the fifties the great Irish emigration to America added an element dangerous to British-American good relations, because of political maneuvering to "catch the Irish vote." This was not a large influence, however, before the American Civil War.

From the point of view of the British ruling class the determining factor in the attitude toward America, even though inconsistently mixed at times with a kind of pride in the development of American power and prosperity, was the fear of the influence of America on the British people,—the fear of an advancing demand for a further step toward democracy.

By 1858 the leaders of British political parties were united in determination to resist democracy. They might carry on political battles with all the old-time energy on other lines, but on this one principle of opposition to democracy they stood as one party. When Palmerston, in 1859, became the head of a coalition cabinet (nominally Whig) he had a private understanding with Derby, the leader of the Tory opposition, that the latter should not push political opposition too far so long as Palmerston's government prevented the introduction of legislation for an expansion of the electoral franchise. This was an agreement by the party leaders to block democracy, now being loudly demanded by certain radicals like John Bright. The governing classes of Great Britain were united in the determination to resist democracy.



## BRITISH RULERS RELIEVED BY CIVIL WAR

The Civil War in America, at first regarded with dismay in Great Britain because of its disastrous effect on trade, once it was seen to be inevitable, brought a great sigh of relief to the British ruling class. That great monster, American democracy, had at length broken in pieces and would no longer exercise a disturbing and evil influence upon the minds of the British people. The "government of the wise" was still the best form of government. It was now but necessary to say to the British people; "See into what catastrophe this mushroom growth of a prosperous democracy has fallen. Will you now choose to follow in American footsteps and endanger your prosperity, which we, your friends and rulers, have secured for you, or will you not now agree that government should be trusted to those who make a study and a business of it, and whose sole object is your well-being?" In the minds of the ruling class it was an honest and sincere conviction that they alone were fit to govern and the collapse of American democracy seemed to mark the end of a great experiment in another type of government, exercising hitherto a dangerous attraction upon the British public.

The American viewpoint of British action and attitude during our Civil War was naturally determined by American desires. The North hoped for sympathy, the South for aid, and neither side got what it wished from the Government of Great Britain; so that in the end North and South alike were embittered. But if we look at our struggle from the British viewpoint there are two basic considerations.

## BELIEVED SOUTH WOULD SUCCEED

The first was that practically no one in England in 1861 believed that the South could be brought back into the Union by force of arms. It did not seem possible that so large a territory as that comprised within the seceding states, with so great a population and so much material wealth, could be forced to give up its asserted independence. History had never recorded a revolution where a people, with these elements of power, had failed to

achieve their independence. The very friends of the North in England, who hoped ardently for Northern success, held that hope with a faint heart. The result of this conviction of ultimate Southern victory was pressure upon the British ministry to do what nearly all declared was inevitable, i.e., to recognize the independence of the South, and to persuade or influence the North to give up a fruitless contest. This pressure was exerted in the first two years of the war by business and trade interests, by the presence of famine in the cotton manufacturing districts of Lancashire and by the ardent friends of the South. Early recognition of Southern independence was urged that the North might recognize the futility of the struggle and peace be restored. The Government of Great Britain did promptly recognize the right of the South to fight for independence and declared British neutrality in our conflict, but beyond that the ministry would not go.<sup>1</sup> Bernhardt, in his *Germany and the Next War*, with a typically aristocratic point of view, has written that "England committed the unpardonable blunder of not supporting the Southern states in the American War of Secession."

#### SAW FATE OF DEMOCRACY INVOLVED

Neutrality, a "cold neutrality" as the North termed it in vexation, was the policy chosen by Great Britain, and on the whole it was strict neutrality also, in spite of the British error in the *Alabama* case,—an error due, primarily, however, to the traditional British disinclination to permit governmental interference in private enterprises unless positive and direct proof of private misconduct were forthcoming.

But back of the cold neutrality was the second basic consideration, the conviction of the governing class,—the conviction indeed of educated Englishmen,—that in the American conflict was embraced the fate of democracy. The greatest fact to be remembered in estimating and judging British governmental and popular attitude on the American Civil War is that to the British mind democracy was "on trial," not necessarily as to its theoretical

<sup>1</sup> For a longer statement see the author's article "American Civil War from the British View-Point," *The History Teacher's Magazine*, May, 1918.

merits, but as to its ability to gain and to maintain a position of power and greatness in the world family of nations. The rulers of Great Britain waited for the accomplished independence of the South, believing that then they could put before the people with assurance the proof that, ultimately, democracies were not capable of maintaining great and powerful states.

This thought was constantly in the minds of ministers, of members of Parliament, of writers in the press, of scholars; and also it was in the mind of every man of intelligence in the unenfranchised working classes in Britain who thought of the American conflict in terms of British home politics. British publications rang the changes on this topic. The *Morning Post* said: "If the Government of the United States should succeed, . . . Democracy will have achieved the grandest triumph since the world began. It will have demonstrated to the ample satisfaction of its present and future proselytes that it is even more puissant in war than in peace. . . . And who can doubt that Democracy will be more arrogant, more aggressive, more leveling and vulgarizing, if that be possible, than it ever had been before?" The *Edinburgh Review* asserted: "It is precisely because we do not share the admiration of America for her own institutions and political tendencies, that we do not now see in the impending change an event altogether to be deplored. In those institutions and tendencies we saw what our own might be if the most dangerous elements of our constitution should become dominant. We saw democracy rampant, with no restrictions upon its caprices. . . . In the hope that this contest may end in the extinction of mob rule, we become reconciled to the much slighter amount of suffering that war inflicts on America." And again, from the *Edinburgh* two years later (1863): "Every sensible man in the country now acknowledges that we have already gone as far toward democracy as it is safe to go. This is the great moral benefit which we have derived from the events in America." The London *Times* in an editorial (1862), exhibiting the American struggle as the end of democracy, said: "These are the consequences of a cheap and simple form of government, having a rural attorney for sovereign and a city attorney for prime minister. . . . This Republic has been so often



proposed to us as a model for imitation that we should be unpardonable not to mark how it works now, when for the first time it has some work to do." Delane, the editor of the *Times*, the greatest newspaper influence in politics, had always in mind this thought of "democracy on trial." When Sherman captured Savannah he wrote privately to Palmerston, the prime minister: "The American news is a heavy blow to us as well as to the South." Lord Acton "broke his heart" when Lee surrendered.

On the side of democracy men were equally convinced of the significance of the American contest. John Bright told the workmen everywhere that the Northern cause was their cause. By 1863 the bulk of the British unenfranchised public had come to believe with him, and he could tell a great mass meeting of trades unions in London that "privilege thinks it has a great interest in it [the Civil War], and every morning with blatant voice it comes into your streets and curses the American Republic." This same mass meeting, Socialist tradition asserts, was organized by Karl Marx, who assured his followers that the cause of the North was the cause of labor and democracy. Lancashire cotton operatives, out of employment, refused to riot as was their wont, for fear riotous demonstration might lead the British Government to intervene in America on the excuse that raw cotton must be supplied to the manufacturers. Lincoln himself wrote to the workingmen of Manchester applauding their sufferings for democracy, as "an instance of sublime Christian heroism which has not been surpassed in any age or in any country." In short, in England, the basic opinion of our war was of "democracy on trial," and men took sides as they desired or opposed an expansion of democracy in England.

### WHY BRITAIN DID NOT AID THE SOUTH

This being so, why did not the British Government, and Parliament, the great majority of whose members were of, and believed in, an aristocracy as the only wise government—why did not the British Government, seeing the power of its own class at stake, definitely and positively come to the aid of the South? Or

at least why did it not so twist and turn international law that Britain, as a neutral, might give direct aid and comfort to the South? The answer is found in the British habit of playing the game of politics or of international affairs like gentlemen, the habit of keeping one's word, once given, no matter at what cost to oneself. A habit of keeping faith, without which civilization ceases to advance,—this was the scruple that prevented the British aristocracy from so guiding British policy as to secure the victory of the South, the permanent disruption of the Union, and the overthrow of the principle of democracy. Great Britain had declared her neutrality in our struggle; unless given just cause for war by one of the belligerents she must, under the accepted law of nations, maintain that neutrality until such time as one or the other of the contending parties was so far conquered as to render inevitable complete defeat. Not until the South had conquered the North, or not until the North had given up efforts to reconquer the South, could Great Britain honorably recognize the independence of the South. No student of our Civil War will doubt that the fate of the Confederacy rested in the hands of Great Britain; that her recognition of Southern independence would have meant the ultimate success of the Confederacy. Yet British statesmen stuck to their word of strict neutrality, and, however cool may have been their attitude toward the Northern cause, the propriety, in accepted international law, of British neutrality was not later seriously called in question save in one case, that of the *Alabama*. For her error in this case, Great Britain paid heavy damages to the United States.<sup>1</sup>

#### AMERICANS FAILED TO UNDERSTAND

British historians almost uniformly make a generalization of this period to the effect that "British ruling classes and the Government were on the side of the South,—the British people on the side of the North." This is in the main correct, though there were exceptions (as always in generalization) on both sides.

<sup>1</sup> These generalizations on British policy are based on a study of the official and private correspondence of members of the British cabinet, from 1860 to 1865, and of both official and private dispatches of the British minister at Washington, Lord Lyons.

To the British public of to-day, indeed, it would be a matter of surprise that America had not understood during the Civil War and since that the key to British attitude, whether governmental or popular, was the question of democracy. But Americans of that time, and long after, failed utterly to recognize or to understand this, and failing to understand, were bitterly reproachful toward the British, whether of the ruling classes or of the people. If Americans were less ignorant of conditions and institutions outside their own country, this error of understanding would not have added force to that anti-British feeling which animated us for years after the Civil War.

The mere facts of British history since 1865 should have enlightened us. In 1867, two years only, after the conclusion of our war, Britain took the next great step forward toward democracy. In 1859 all leading British statesmen talked "finality" in franchise expansion, and Tory and Whig were united in determination to preserve aristocratic rule. Now, in 1865, democracy "on trial" had proved its worth in power, and Tory and Whig leaders, knowing that public pressure could no longer be resisted, raced for popular favor with rival reform bills. The Gladstone (Whig) measure was defeated by clever political maneuvering, but the Disraeli (Tory) measure replaced it and was passed as the "Reform Bill of 1867." By it the "government of the wise" came to an end in Britain, and the "government of democracy" began; for the franchise was so extended as to take in the artisan class. Later, in 1884, the franchise was extended to unskilled laborers, and by still other minor changes, Great Britain has come to full acceptance of the democratic principle of majority rule.<sup>\*</sup> It is not too much to claim that the American Civil War ended the long struggle in Britain over democracy, for with the reform of 1867 there came an end to a government based on the theory of the right of education and wealth to rule the state. It was the good fortune of Great Britain that education and wealth, quietly accepting the new order in government, set themselves to serve

<sup>\*</sup> The new parliamentary franchise by the Reform Act of February 7, 1918, gives the franchise to every man in Great Britain and Ireland over 21 years of age if a resident of an electoral district for the six months preceding the election. It gives the franchise to every woman over 30 years of age who has previously had the privilege of voting in local elections, or who is the wife of a local elector.

and guide, in so far as they were permitted by their new fellow-citizens.

### SISTER DEMOCRACIES SINCE 1867

Thus it is clear that throughout nearly a hundred years of American relations with Great Britain an influential factor in attitude and action up to 1867 was the question of democracy as a political form of government. Throughout all this time the Government of Great Britain as such (no matter what personal and social ties united the two nations) was in opposition, in its theoretical and practical applications, to the Government of the United States. Always in Great Britain, a minority appealed to the example of America as worthy of imitation, but it was not until 1867 that the principles of government became the same in both countries. With that date there came to the British Government and people alike a sincere desire to settle amicably all questions in dispute with America, to live on terms of extreme friendship, to proceed along similar, though not identical, lines of democratic development. Since 1867 democracy in Great Britain has been holding out hands to a sister democracy across the ocean.

But for long Americans refused this overture. In specific cases of disagreement, it is true, Great Britain was found to be astonishingly ready to make concessions, to arbitrate; to find some way out of quarrel into amity, and these cases little by little had their effect on American opinion, rendering it more friendly. Yet America long remained truculent after the Civil War, refusing to forgive to a new Britain the injuries credited to a Britain that had ceased to exist.

With the settlement of the *Alabama* claims in 1872, however, nothing remained for angry America to fix upon as a grievance, and since that date there has been no serious clash between the two nations. A small cloud threatening possible hostilities appeared in 1895 when America took up cudgels for Venezuela in that country's dispute with Britain over boundaries, but after the first shock of surprise and irritation in Britain had passed, the press, public and officials, joined in asserting that under no conceivable

circumstances should the Venezuelan question be permitted to expand into a serious quarrel with the United States, and this friendly attitude led easily to a just settlement by arbitration of the Venezuela boundary,—a settlement, by the way, which showed British claims, on the whole, to have been well-founded.

During the Spanish-American war the British Government and people had at last an opportunity to exhibit to America their established friendship. The British public, alone among the peoples of Europe, appreciated the humanitarian motives that had led America to interfere in Cuba, and sympathized with those motives; and the British Government gave repeated evidences of a similar understanding and sympathy, both in diplomacy and in the critical situation in Manila Bay when it seemed as if a clash between the American and German fleets was inevitable. From that time the attitude of the American Government toward Great Britain was altered; while on her part Britain gave further evidence of seeking for American friendship by acquiescing in the revocation of the Clayton-Bulwer treaty of 1850 which provided for joint control of an isthmian canal. The new Hay-Pauncefote treaty as finally ratified by the Senate of the United States was possible of doubtful interpretation. The British argued that it prohibited any discrimination in tolls as against British ships, while Congress took a different view and passed legislation giving favor to American coastwise shipping. Britain appealed to American "fairness," and the appeal was not in vain. The discriminatory legislation was revoked, but far more than any question of the fair treatment of a friendly power was the appeal in America to keep faith, to stand by the pledged word, when once that word had been given, as absolutely essential to a sense of honorable conduct,—even though in this case there were many who honestly believed that the British interpretation of the treaty was a mistaken one. America by her about face on the Panama tolls question gave testimony that she acknowledged and would abide by the principle of "good faith" between nations—a principle which in this year (1918) is at last seen to be the very basis of any hope of a world order, of any hope of a nonmilitant advancing civilization.



## AMERICA NOW APPRECIATES BRITAIN

In the war just ended America has come to appreciate fully Britain's high purpose, has come to sympathize with Prime Minister Asquith's statement at its very beginning that "this war is a war to secure the principle of good faith." The Governments of Great Britain and America have drawn together since 1898, forgetting old rancors, but the people of America, insular in their point of view and school-taught in the old animosities against Britain, have been going through the process of "forgiving Britain for past injuries," wholly ignorant of the fact that the Britain they would forgive ceased to exist in 1867. America has been holding a grudge against a thing that died 50 years ago. A new Britain was formed in 1867, a sister democracy in which the principle of government was our principle. Only now do Americans realize this and understand that in this war in which democracy, as the form of government safest and least disturbing to world order, has fought against a form of government that wished to destroy world order and to destroy democracy also,—that in this war Great Britain was fighting for American principles and American faiths.

There are many divergencies in the form and application of democratic principles. In the development of social democracy Great Britain in the last 20 years has advanced to experiments as yet but dimly glimpsed in America. But the principle itself of political democracy is the same in all countries where it has been established,—that in the people themselves must rest and remain the control of their own destinies, and that change and growth must rest upon peaceful (not forcible) revolution by methods of conciliation and compromise through the decision of majorities.

In no other great nation did this established American principle receive so early an acceptance as in Great Britain. It was this very question, as a matter of British home politics, in short, that has colored and in large part determined the whole British attitude toward America from the time of the American revolution. Of what worth is it to-day to recur to outworn controversies? Rather, the facts of the present should guide us, and in full recogni-

tion that Britain and America now stand side by side as sister democracies, let Americans also acknowledge that a spirit born in England, though brought first to maturity in America, to-day binds two peoples together for the future as it bound them in this war. It is, as Lord Chatham said long ago, a "glorious spirit which animated millions to die in defense of their rights as *Men*—as FREEMEN! What shall resist this spirit?"

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## APPENDIX.

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The editors are glad to be able to publish with the valuable interpretative article of Professor Adams a notable series of letters written by a gifted Nova Scotian jurist whose grandfather played an influential part in the colony of Massachusetts Bay but whose loyalist convictions caused his removal to Nova Scotia. Justice Russell's plea for a new valuation of Anglo-American relations gains added force from the fact that his life has largely been devoted to the public service in Canada, where for a generation he has been well-known as the author and editor of law reports, as a member of Parliament and justice of the Supreme Court of Nova Scotia.

### ANGLO-AMERICAN RELATIONS.

BY BENJAMIN RUSSELL,

*Justice of the Supreme Court of Nova Scotia.*

[Letters reprinted from the *New York Times*.]

#### I. NEW HISTORY OF 1776?

THAT WRITTEN WITHOUT A CONSCIOUS PURPOSE IS BETTER TO ADVANCE  
THE "ERA OF GOOD FEELING."

Since the United States entered the war on the side of the Allies suggestions have been made from time to time of expedients looking to the perpetuation of the "era of good feeling" between the Republic and the mother country upon which we seem to have entered. Among other things it has been proposed that a new history or a series of histories should be written covering the period of the Revolution and dealing with the relations between the two countries at subsequent critical dates.

I am inclined to the opinion that no new histories are really necessary and that a more widely extended familiarity with the histories that have already been written, and written with no conscious purpose of conciliation, will be productive of better results than a series of histories written

with the conscious and deliberate purpose of coloring the narrative in such a way as to minimize the differences that have existed between our respective nations and suppress the unpleasant features that our international relations have from time to time presented.

The speeches of Edmund Burke, to begin with, would be excellent reading for any one who wishes to know what the common people of England really thought and felt about the insane course of procedure upon which the Imperial Government entered in the effort to coerce the American colonists in the closing years of the eighteenth century. But in reading those great speeches I would recommend that they should be read with the notes provided in the volume issued as one of the numbers in Everyman's Library. It becomes clear to any one who carefully reads Burke's great polemic that he did not have any luminous and consistent theory of the financial relations that should exist between the sovereign power and the discontented colonies, and, furthermore, that on some quite important particulars his statements of fact were unreliable.

A much more thorough and satisfactory statement of the questions at issue is presented in the monumental work of Trevelyan, as to which he tells us in his preface that the collection of his material was at first the unconscious and later the conscious occupation and delight of a lifetime. Certainly no life could have been better spent than in the preparation of these six noble volumes which tell the story of the Revolution without fear, favor or affection, with the most generous appreciation of the motives and conduct of the Revolutionary leaders and with an absolute freedom from any bias in favor of his own country.

Mr. Lecky's chapters on the Revolution, in his great history of the eighteenth century, of course will not be overlooked by any reader who wishes to become familiar with the actual facts of history and to form a just judgment of the actors in those great events. As Mr. Fiske says in one of the footnotes in his two-volume work on the period, "In his account of the American Revolution Mr. Lecky inclines to the Tory side; but he is eminently fair and candid." (Vol. I of Fiske, Page 91, note.)

All the volumes I have mentioned are well worth reading, and of course my enumeration does not begin to exhaust the list. But if I were asked to recommend a work for perusal by a reader who could not command the time required for more than a single author I should be inclined to name a work which unhappily seems to be no longer on the shelves of the booksellers, and it is mainly with the object of doing justice to the author of these volumes that I have asked for a portion of your valuable space. I refer to the two volumes prepared by the late Moses Coit Tyler,

entitled, "The Literary History of the American Revolution." The author was professor of American history in Cornell University. He describes his work in his preface as "the product of a new method, at least of a method never before so fully applied in the critical treatment of the American Revolution."

The plan of the author, he tells us, has been "to let both parties in the controversy—the Whigs and the Tories, the Revolutionists and the Loyalists—tell their own story freely, in their own way, and without either of them being liable at our hands to posthumous outrage in the shape of partisan imputations on their sincerity, their magnanimity, their patriotism, or their courage." Instead of fixing his eyes almost exclusively, as is commonly done, upon statesmen and generals, upon party leaders, upon armies and navies, upon Congress, upon Parliament, upon the ministerial agents of a brainsick king, or even upon that brainsick king himself, and instead of viewing all these people as the sole or the principal movers and doers of the things that made the American Revolution, he turns his eyes for the most part away, he says, toward certain persons hitherto much neglected, in many cases wholly forgotten—toward persons who, as mere writers, and whether otherwise prominent or not, nourished the springs of great historic events by creating and shaping and directing public opinion during all that robust time.

He aims "to present the soul rather than the body of the American Revolution; a careful, independent, and, if possible, unbiased register of the very brain and heart of the sorely divided people of the land, as those wrought and rejoiced and suffered, in the progress of those tremendous political and military events which constitute the exterior and visible framework of our heroic age." He is impressed, as who that has any understanding whatever of the period can fail to be impressed, "by the tragedy and the pathos of the period between 1763 and 1783, as the birth-time of a most bitter race feud—a race feud implacable, perhaps, and endless, but altogether needless; of a fatal disagreement between the two great branches of a race which at this moment holds a historic position in the world and a historic opportunity not only the most extensive and the most splendid, but the most benignant that was ever attained by any similar group of human beings upon this planet." His purpose is "to show that this race feud need not, after all, be an endless one, that already its fierceness has had expression enough, and that its wrath has now too long outlasted the going down of the sun; in short, to bring together once more into sincere friendship, into a rational and a sympathetic moral unity, these divided members of a family capable, if in sub-

stantial harmony, of leading the whole human race upward to all the higher planes of culture and happiness—this is an object which in our time draws into its service the impassioned desires, the hopes, the prayers, the labors, of many of the noblest men and women in Great Britain and in America.”

He confesses that he has written a new history of the growth and culmination of the race feud, so far as he is able, in the simple service of historic truth and without permitting himself to be turned this way or that by any consideration touching the practical consequences that might result from fidelity or from infidelity to his duty as a historian. Yet he expresses his belief that “one practical consequence of his history will be eirenic rather than polemic, namely, the promotion of a better understanding, of a deeper respect, of a kindlier mood on both sides of the ocean, among the descendants of those determined men who so bitterly differed in opinion, so fiercely fought, and in their anger so widely parted company, a century and a quarter ago.”

These words were written in 1897. It was of course impossible at that date to foresee the events that have brought the two nations together in common defense against a common enemy, and it may be suggested that, in view of and because of that armed co-operation, the eirenic effort of the author is no longer called for. I am not inclined to concur in that view. The rapprochement that has been brought about by what may fairly be termed an accident, or a succession of accidents, is liable to pass with the passing of the exigency that gave it birth.

If our author is justified in his judgment that, apart altogether from such an accidental necessity, which he did not foresee and with which, therefore, he could not and did not reckon, the time had arrived for a moral reunion of the several branches of the great family, it is worth while that the grounds on which he based his conviction should be understood and appreciated. If, therefore, you can afford the space, I shall at some future day make a further reference to and bespeak for the work of this author and his way of thinking about the relations between our two great nations a greater publicity than that which seems to be indicated by the result of my applications to publishers and booksellers for a copy of his valuable work.

HALIFAX, August 26, 1918.

B. RUSSELL.

## 2. NEW VIEWS OF REVOLUTIONARY WAR HISTORY.

AMERICAN AND BRITISH SCHOLARS REACHING A FAIRER APPRECIATION OF  
THE ISSUES—MODERN JUDGMENT ON THE LOYALISTS.

It is trite learning to-day that the attack on the American Commonwealth toward the close of the eighteenth century was in the main the enterprise of the British sovereign. This is not to say that the financial pedantry of George Grenville and the levity and rashness of Charles Townshend were not greatly to blame for the catastrophe. But the chief responsibility must forever rest upon the sovereign with whom it was the misfortune of the empire to be cursed, for the same reason that the chief responsibility for the calamities of the present century must rest upon the German Kaiser, because his was the one will that could have prevented them and his the one voice that could have commanded otherwise. Of this unworthy British sovereign one of the most fair-minded and candid as well as most brilliant and charming of English historians, Green, in his "Short History of the English People," has said:

He had a smaller mind than any King before him save James II. He was wretchedly educated and his natural powers were of the meanest sort. Nor had he the capacity for using greater minds than his own, by which some sovereigns have concealed their natural littleness. On the contrary, his only feeling toward great men was one of jealousy and hate. He longed for the time when "decrepitude or death would put an end to Pitt" (Lord Chatham), and even when death had freed him from this "trumpet of sedition" he denounced the proposal for a public monument to the great statesman as an "offensive measure to me personally." But dull and petty as his temper was, he was clear as to his purpose and obstinate in the pursuit of it. And his purpose was to rule. "George," his mother the Princess of Wales had continually repeated to him in youth, "George, be King!"

Sir George Otto Trevelyan, in his "Early History of Charles James Fox," describes the prolonged and discreditable contest of this prodigiously foolish and obstinate sovereign with the electors of Middlesex, and no competent history of the period fails to disclose the corrupt and demoralizing methods by which he consolidated a party in Parliament composed of members who knew no other rule of political conduct than that of unquestioning and absolute subserviency to the personal wishes of the king. The quarrel of this narrow-minded and obstinate bigot with the people of the American Commonwealths was only one phase of his prolonged contest with the popular element throughout his realm,



and was the consequence of his determination to carry out the injunction of his foolish mother by establishing his personal government throughout the empire. If he had not been able by his corrupt political methods to exclude from power the great leader whose statesmanship had created the empire over which he reigned and to govern the country through such tools as Bute and North; if he had been willing to accept and retain in his service such representatives of the enlightenment and moral force of the kingdom as Lord Chatham or Burke or Lord Camden or the Marquis of Rockingham, there need never have occurred such a calamity as the breaking up of the British Empire. Self-government must of course have come in due season, as it has come to Canada, to Australia, to New Zealand, to South Africa, and as it may one day come to India. But there need have been no seven years of bloodshed, no century of estrangement, no lingering root of bitterness, no Wyoming massacre of helpless women and children, no retaliatory persecution of the unhappy loyalists, no discreditable rioting and lawlessness on the part of the excitable revolutionary masses. There was never any necessary reason in the nature of things why there could not have been throughout the nineteenth century the same union of hearts between the mother country and her lusty offspring beyond the sea that has been so beneficently and so gloriously manifested as existing in these terrible years between the motherland and the colonial dominions.

This was the vision that inspired the United Empire Loyalists and it was this aspiration that impelled the great Lord Chatham, notwithstanding his intense and hearty sympathy with the cause of the American colonists, and although "broken with age and disease," to be borne to the House of Lords to utter in a few broken words his protest against the proposal to surrender America, when he "rejoiced that he was still alive to lift up his voice against the dismemberment of this ancient and noble monarchy."

It is in his discussion of the position and principles of the Loyalists that Professor Tyler displays in a very special degree his breadth of historical comprehension and the fairness and calmness of his political judgment. I cannot forbear to quote the passage with which he introduces his citations from the sermons, pamphlets, public letters and speeches of the men who were unable to see eye to eye with the patriotic leaders of the revolutionary movement:

Even yet, in this last decade of the nineteenth century, it is by no means easy for Americans—especially if, as is the case with the present writer, they be descended from men who thought and fought on behalf of the Revolution—to take

a disinterested attitude, that is an historical one, toward those Americans who thought and fought against the Revolution. Both as to the men and as to the questions involved in that controversy, the rehearsal of the claims of the victorious side has been going on now for a hundred years or more, in tradition, in history, in oration, in song, in ceremony. Hardly have we known, seldom have we been reminded, that the side of the loyalists, as they called themselves, of the Tories, as they were scornfully nicknamed by their opponents, was even in argument not a weak one, in motive and sentiment not a base one, and in devotion and self-sacrifice not an unheroic one. While the war was going forward, of course, the animosities aroused by it were too hot and too fierce, especially between the two opposing groups of Americans, to permit either party in the controversy to do justice to the logical or to the personal merit of the other.

When at last the war came to an end, and the champions of the Revolution were in absolute triumph, then the more prominent Tories had to flee for their lives; they had to flee from the wrath that had come, and to bury themselves, either in other lands or in obscure places of this land. Then, of course, they and all their detested notions and emotions and deeds, whether grand or petty or base, went down out of sight, submerged beneath the abhorrence of the victorious revolutionists, and doomed, as it appears, to at least one solid century of oratorical and poetical infamy, which has found its natural and organized expression in each recurring Fourth of July and in each reappearance of the birthday of Washington. May it not, however, at last be assumed that a solid century should be, even under such conditions, a sufficient refrigerator for overheated political emotion? May we not now hope that it will not any longer cost us too great an effort to look calmly, even considerately, at least fairly, upon what, in the words and acts of the Tories, our fathers and grandfathers could hardly endure to look at at all? And, surely, our willingness to do all this can hardly be lessened by the consideration that, "in dealing with an enemy, not only dead, but dead in exile and in defeat, candor prescribes the fullest measure of generous treatment." At any rate, the American Revolution affords no exemption from the general law of historic investigation—that the truth is to be found only by him who searches for it with an unbiased mind. Until we shall be able to take, respecting the problems and the parties of our own Revolution, the same attitude which we freely and easily take respecting the problems and parties of other revolutions—that is, the attitude, not of hereditary partisans, but of scientific investigators—will it be forbidden us to acquire a thoroughly discriminating and just acquaintance with that prodigious epoch in our history.

The "personal equation" introduced into the reckoning by Professor Tyler may perhaps excuse a like personal reference by the present writer. Shortly after the declaration of war by the President of the United States it fell to my lot to address an assembly of Rotarians in the City of Boston, from which city my grandfather became a voluntary exile because of

his so-called Tory principles, in 1776. I ventured to illustrate his position and that of those who accompanied him in exile by a reference to the civil war of the sixties of the last century, pointing out that the Revolutionists of 1776 were engaged in a movement analogous to that of the seceding states of the Southern Confederacy in 1860. The very doctrine of nullification, of which the policy of secession was a later development, had been propounded by the American patriots from 1764 to 1776, after which they became secessionists, as did also the nullifiers in the Southern Confederacy. The Loyalists of the earlier movement were inspired by motives entirely similar to those of the loyal and patriotic men of the Northern states from 1860 to 1864, who could not endure the thought of their Federal union being broken into fragments. The ethical and political problem that was presented to the illustrious soldier, General Lee, in the middle of the last century, whether his first duty was to his own state or to the Federal union of states, was precisely the same problem that presented itself to the Loyalists in the earlier struggle between two conflicting patriotisms. In short, the position of the Southerners in the last century was analogous to that of the Revolutionists in the century before the last, while the Loyalists in the days of the American Revolution held the position which was that of the loyal North in the days of the great Civil War.

Unfortunately, I had not at this date read the work of Professor Tyler. Had I been able to cite him as an authority for the analogy it is quite possible that the sympathetic attention of my hearers, which bore a slight resemblance to that "certain condescension in foreigners" of which Lowell wrote so cleverly in one of the best known and best remembered of his essays, might have grown into an expression of positive approval and assent.

But the fact of this analogy does not involve the consequence that the royalists were right, if or because the North was right on the questions at issue in the Civil War, or that the revolutionists were wrong if or because the seceding states were not justified in their attempt to dissolve the Federal Union in 1860. Each case must be decided on its own merits. Mr. Tyler presents the analogy only as a help toward the fair appreciation of the motives and conduct of the loyalists of 1776. He does not present it as an argument to prove the soundness of their position or the wisdom that governed their conduct. Nor do I.

They sincerely believed that it was possible to secure the redress of their grievances without resorting to armed rebellion. I must frankly confess that in this hope I believe they were mistaken. Fifty years later,

when the lesson of the American Revolution had had ample time to sink into the hearts and minds of the governing classes in the old country, the lesson had to be learned all over again. The struggle for popular government in the Canadian provinces had to be renewed near the middle of the nineteenth century, and the happy results of that struggle would no doubt have been indefinitely deferred if armed resistance had not been offered to the authority of the governing powers. The late Dr. Saunders of Halifax was certainly the last man in the world to whom one would look for justification or apology for anything savoring of resistance to constituted authority, yet he says, in his book entitled "Three Premiers": "It was not the protests of Baldwin, Howe, and other reformers which opened the eyes of the (British) Government and stirred Downing Street into honest activity. It was the crack of the MacKenzie muskets." Sir John Bourinot, in his "Story of Canada," likewise attributes the breakup of the so-called "Family Compact" and the introduction of responsible government to the rebellion of 1837. To the same general effect might be cited the testimony of an indefinite number of learned writers on Canadian history, and among them the most brilliant and versatile of them all, the late Goldwin Smith.

If the struggle for decent colonial government could not have been won without resort to arms in 1837, five years after the common people of England had been enfranchised by the great Reform bill, what reason is there to assume that the rights of the colonists against an imperial aristocracy could have been secured without the resort to arms half a century earlier, in the days of rotten boroughs and unreformed Parliaments, when the real people of England were voteless and voiceless, and the mother country lay prostrate at the foot of a monarch in command of a parliamentary majority prepared to support him in his determination to govern with absolutely no constitutional limitations on his sovereign power?

The verdict of history has vindicated the revolutionary patriots, and established their place in the line in which stand the barons at Runnymede, the heroes of Naseby and Marston Moor, and the patriotic statesmen that consummated "the glorious revolution of 1688." But that is no reason why the American people should misunderstand the motives or belittle the heroism of the loyalists who left their shores from 1776 to 1783.

Among those exiles were a number of Hessian mercenaries to whom it will be the charity of history if it allows their memory to rot. An old friend of mine who once held a seat in the provincial House of Assembly

used to tell that in his county whenever any particularly discreditable transaction occurred it was most likely to be traceable to one of these so-called refugees, and the invariable comment of the community was, "What else could you expect from a ruffgee?" But I am sure that the perusal of Professor Tyler's chapters on this subject will leave the American reader with the conviction that there was another class, the real loyalists of the Revolutionary period, who are entitled not merely to their cold respect but to their enthusiastic admiration. When Major George Haven Putnam lectured before the Canadian Club in Halifax a year or more ago he began his discourse with what President Wilson would style a "handsome" apology to the descendants of these men for the manner in which they had been treated by the forefathers of his own countrymen in the eighteenth century. I am quite sure that in this generous and statesmanlike deliverance he fairly represented the views and feelings of every educated American, and it is no surprise to me that the present generation of Americans, who have twice elected as their President a native Virginian and who can admire and glory in the chivalry and heroism of the Southerners against whom they were aligned in battle array much less than a century ago, have found no difficulty in extending the hand of cordial fellowship to the descendants of the men who laid the foundations of constitutional government and British civilization in the great and friendly Commonwealth to the north of them, in alliance with whom they now stand for the preservation of Freedom and Humanity and all that makes life worth living to the children of men.

HALIFAX, December 6, 1918.

B. RUSSELL.



## 3. THE BRITISH AND AMERICAN NAVIES.

NO GROUND FOR RIVALRY IN SEA POWER, AND MANY REASONS FOR  
CO-OPERATION.

[A letter appeared toward the end of November, 1918, in the *Baltimore Sun* from a correspondent in Paris, the tenor of which may be sufficiently inferred from the following comments.]

I think the most dangerous and damnable thing in Mr. Kent's farrago of mischievous Parisian gossip was his suggestion of a competition in naval armaments between England and the United States. If there are Americans in Paris who attribute to Englishmen or to the British Government any spirit of jealousy or suspicion because of the enlargement of the American navy they surely are suffering from nightmare. There was a time when in Canada some of our more ignorant people believed that the white fleet which was being developed, I cannot say just how many years ago, was destined for the conquest of Canada, and predicted that it would before many years be invading our seaports. Those were the days when the notorious Benjamin F. Butler was angling for the vote of the Cape Ann fishermen, and putting up his hypocritical prayer not to be led into temptation, the said temptation being that of taking forcible possession of the inshore fisheries of the maritime provinces of Canada. All that is now ancient, and, for the most part, happily forgotten, history. Those quarrels have been definitely settled, and all the clouds that lowered o'er our house in the deep bosom of the ocean buried. Since those days a common policy between the two nations with reference to the open door in China, the restraining hand of the British Government upon Continental powers which were conspiring to take advantage of the Spanish war as an occasion for the embarrassment and humiliation of the American Government and people, the part played by the British naval commander in the battle of Manila Bay, as testified to by Admiral Dewey in his autobiography, had already put an end to all such foolish international suspicions between the United States and Great Britain, and rendered a breach of the peace between these two great powers as unthinkable as a war between England and Canada.

The truth is that there never has been a moment since the settlement between the two nations by the peace at Ghent in December, 1814, when the assured ascendancy of the British navy has not been one of the essential conditions of the security and comfort of the western world in general, including the United States and Canada.



In the very interesting book entitled "Pan-Americanism," by Roland G. Usher, professor of history in Washington University, St. Louis, the writer brings out this fact in his chapter on "The Supremacy of the Sea." "We cannot," he says, "explain or understand the history of the United States if we omit from our consideration the sea power in England's hands. To it is due the predominantly English character of American civilization. The English supremacy of the sea fundamentally was and is a domestic necessity, maintained rather as a part of England's defensive position on the Channel than for the purpose of exerting influence in different parts of the world. It is this fact which we must firmly grasp if we are to understand the relation of English sea power to-day to international alliances in general and to the United States in particular." Her fleet "was not created to threaten or rule other nations, and exerts an influence in international affairs only as a result of its necessary existence for the maintenance of domestic peace and prosperity. It is to-day so vital for defense that it could not possibly be used for aggression alone; to risk in an offensive war, undertaken purely for aggression, the very bulwark of the national existence would be folly of the worst description, a fact of the utmost consequence in the study of international affairs."

The fact that the people of England could be reduced to starvation in a very few months, perhaps in a very few weeks, if they could not depend on the safety of the ocean lanes for their food ships, makes it absolutely necessary that they should have a navy able to cope with any conceivable hostile combination of powers. They have always made this their standard of safety. But in taking account of their possible enemies they have invariably, persistently and emphatically refused to consider the United States as being among the number, and they will more emphatically refuse to do so now than ever before. It is this consideration that makes it so utterly detestable and shameless a thing for Mr. Kent to have even hinted at the possibility of conditions arising when such a calculation should have to be made. The bare suggestion of such a possibility is a crime against humanity and a foreshadowing of the possible collapse of human civilization.

Let me proceed to adduce Professor Usher's testimony to the moderation and the spirit of equity in which the enormous and preponderating sea power of England has been exerted and the especial friendliness with which it has, ever since the unfortunate events preceding 1812, been governed in its relations with the people and Government of the United States. In 1823 Jefferson wrote to Monroe: "Great Britain is the nation

which can do us the most harm of any one or all on earth; and with her on our side we need not fear the whole world. With her, then, we should cherish a cordial friendship." "This," says Professor Usher, "has in fact been our policy, although it has rarely been openly avowed and has often been threatened with rupture by the rise of other interests upon which we clashed with England." I suppose he has in mind the fishery disputes, the painful questions arising out of the civil war, the Behring Sea controversy, the Alaska boundary question, and a number of similar difficulties, any one of which would have sufficed to bring about a war with England had they occurred between that country and any European power.

But this is, perhaps, a little aside from the track which it was my intention to follow. Let me return to my thesis. "England, on her part," says the learned historian, "has seen the wisdom of using her sea power with moderation, and of performing with scrupulous exactitude the various duties it imposed upon her in the interest of other nations. An excellent merchant marine, affording other nations dependent upon her prompt, adequate, reasonable service, with low freight rates, low insurance and brokerage, has been and still is essential to the continuance of her authority. She must freely and without compulsion do for them what they would otherwise have to do for themselves, and be satisfied with the normal profits which their own merchants might have expected to pay to a merchant marine of their own. So much was obvious. Never to abuse her power was equally important. It should never be stained by aggression, and the line between aggression and defense must be strictly drawn and never exceeded. In reality, the moderation and wisdom with which England has used her authority are more responsible than the strength of her fleets for the length of time that she has been supreme and for the relatively few times in the past when her control has been really threatened, or, indeed, advisedly questioned.

"Since the war of 1812 harmonious relations have been the rule with England, the mutual interests of both in reaching agreement in hearty co-operation have been recognized, and such a cordial understanding with England is one of the few settled facts in American diplomacy. To this sea power and all that goes with it our whole economic fabric has been adjusted. Upon it nearly everything depends. We have never known any other condition, and have had no serious reasons since 1815 to desire to change it."

The chapter closes with the following words:

"The recent growth of foreign navies has caused a concentration of English ships in European waters, and has made us feel it desirable to strengthen our navy so as to be able to protect ourselves against any other power than England. There could scarcely be a more striking testimonial to our confidence in the fairness of England, of our belief in the strength of her friendship for us, and in the firmness with which she means to maintain her policy of defense."

These words were written in 1915, at a time when there was no apparent probability of the United States being associated with England in the prosecution of the war. In fact, the theme of Mr. Usher's book was a speculation as to the position the United States would be in relatively to the victor in the European war. As the United States is itself one of the victors, Mr. Usher's question can no longer be raised. But surely nothing has occurred to diminish the strength of England's friendship for the Republic, and the comradeship in arms must have brought about an *entente* more secure and more durable than any "entangling alliance" would have been.

HALIFAX, December 6, 1918.

B. RUSSELL.

## OFFICIAL FRENCH COMMISSION ON THE SOCIETY OF NATIONS.<sup>1</sup>

By decree dated July 22, 1917, M. Ribot, president of the council, minister of foreign affairs, instituted under the presidency of Léon Bourgeois—who had played a very useful and considerable rôle in the two Hague Conferences—a commission for the study of the conditions in which the association to which universal opinion has given the name of Society of Nations might be constituted among the states.

This commission is made up as follows:

Léon Bourgeois, former president of the council, member of the Permanent Court of Arbitration, president of the commission;

Jean Jules Cambon, ambassador of France, vice president;

Vice Admiral Lacaze, former minister of marine, maritime prefect of Toulon, vice president ;

Gabriel Hanotaux of the French Academy, former minister of foreign affairs;

Ernest Lavisse of the French Academy;

Paul Henri Benjamin d'Estournelles de Constant, member of the Permanent Court of Arbitration;

M. Payelle, first president of the Court of Accounts, president of the commission appointed for determining violations of international law committed by the enemy;

P. de Margerie, minister plenipotentiary of the first class, director of political and commercial affairs at the ministry of foreign affairs;

M. Appell, dean of the faculty of sciences, member of the Institute;

Jean Louis Renault,<sup>2</sup> member of the Institute, member of the Permanent Court of Arbitration, jurisconsult to the ministry of foreign affairs;

<sup>1</sup> Translated from the report of Deputy Raiberti for the Budget Commission charged with examining the project of law fixing the ordinary budget of civil services for the fiscal year 1918, ministry of foreign affairs.

<sup>2</sup> Died February 18, 1918.

Paul Matter, advocate general to the Court of Cassation;

M. Péan, director at the ministry of justice;

Captain Petit, vice president of the Civil Tribunal of the Seine, attaché to the subsecretariat of state of military justice;

M. Pila, consul general, secretary general of the economic conference of the allied Governments;

Secretaries: Messrs. Jarousse de Sillac and Clauzel, secretaries of embassy of the first class.

The French Government has not arbitrarily taken the decision to constitute this commission and to compose it of eminent personalities. This decision was imposed upon it, as upon all other allied, or even enemy, Governments. For none of them can be indifferent to the concern shown by the public opinion of all peoples to see the formidable conflict which is overturning the earth result not in the cul-de-sac of an uncertain truce, but in a true peace which may leave the world as long as possible free from the return of war.

The idea is not new, however. It took form in the two Hague conferences of 1899 and 1907, where all civilized states were represented. The preamble of the convention for the pacific solution of international disputes on two different occasions, on the initiative of the French delegation, declared a recognition of the solidarity which unites the members of the "society of civilized nations."

The war has placed the question in the front rank for public opinion.

It is interesting to recall briefly the most authoritative opinions expressed on this subject by the statesmen of the principal belligerent countries. . . .[A number of quotations follow.]

The commission first determined its method of work. By common consent of its members, it decided that the study intrusted to it by the Government could and should be pursued without any infringement on the examination of questions which will be the proper subjects of the treaty of peace.

## NO INTERNATIONAL STATE

This first point established, it had to make it clear that the Society of Nations whose organization it studies *could not have the object of establishing an international state, superior to other states*, but solely the maintenance of peace by the substitution of law for force in the regulation of international disputes and litigations. It has thus at the outset avoided any possible concern on the subject of infringements on the sovereignty of the associated states, of which there could be no question.

The task of the commission having been thus limited, it was proposed first to fix the principles on which, in its opinion, the Society of Nations must be constituted. These principles have been established by a unanimous vote after long discussions requiring many sessions. They have been set forth in an exposition which Léon Bourgeois sent to the minister of foreign affairs on January 17, 1918. The commission was of the opinion that it would be useful for the Government of the Republic to submit them immediately to the examination and acceptance of its Allies, in order that the unity of their views might be complete before any opening of negotiations for peace and that, in the treaty of peace itself, their enemies should not be able to introduce by surprise any provision capable of altering or compromising the rules of justice and right, without which no true peace could be established and maintained.

In view of this diplomatic consultation and out of regard for the allied Governments, it does not seem possible to divulge this exposition before they have informed the minister of foreign affairs of their feeling with regard to the principles set down in it.

## FOUR REPORTS PREPARED

Without awaiting the result of this consultation, the commission has deferred to the desire of the Government in undertaking immediately the sequel of its work and in studying the application in detail of the principles fixed by itself. Four reports are at present in course of preparation and discussion. They con-



cern (1) the history of the question; (2) diplomatic, juridic and economic sanctions; (3) military sanctions; (4) organization of international jurisdiction.

It is necessarily desirable that the same work of preparation should be done in the other countries of the Entente. Thus, when the Allies shall have determined by common agreement their views on this important subject, they will be in a position to advance it with full understanding when it shall be brought forward in the negotiations for the treaty of peace.

But, whatever the definition on which they may agree as to the juridical rules which must control in a new Europe respecting the functioning of the Society of Nations, *it is scarcely probable that the Central Empires will accept them unless forced to do so.*

In so far as the treaty of peace shall not submit the relations of peoples among themselves to special guaranties of law, they will continue, as they are to-day, to be ruled solely by the right of the strongest. Force alone can therefore create the new régime and establish the rules of justice and the sanctions of law without which no sincere and durable peace could be founded or maintained. So, while discussing among themselves the conditions of the future Society of Nations, the allied powers can never forget that if it is to exist some day, this can only result from the victory of their arms.

# LEAGUE *of* NATIONS

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April, 1919

## JOINT DEBATE ON THE COVENANT OF PARIS

HENRY CABOT LODGE,

*United States Senator from Massachusetts,  
Chairman-designate of the Senate Committee  
on Foreign Relations*

A. LAWRENCE LOWELL,

*President of Harvard University,  
Chairman of the Executive Committees of World Peace  
Foundation and League to Enforce Peace*

SYMPHONY HALL, BOSTON

March 19, 1919

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# World Peace Foundation

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The corporation is constituted for the purpose of educating the people of all nations to a full knowledge of the waste and destructiveness of war, its evil effects on present social conditions and on the well-being of future generations, and to promote international justice and the brotherhood of man; and, generally, by every practical means to promote peace and good will among all mankind.—*By-laws of the Corporation.*

It is to this patient and thorough work of education, through the school, the college, the church, the press, the pamphlet and the book, that the World Peace Foundation addresses itself.—Edwin Ginn.

The idea of force cannot at once be eradicated. It is useless to believe that the nations can be persuaded to disband their present armies and dismantle their present navies, trusting in each other or in the Hague Tribunal to settle any possible differences between them, unless, first, some substitute for the existing forces is provided and demonstrated by experience to be adequate to protect the rights, dignity and territory of the respective nations. My own belief is that the idea which underlies the movement for the Hague Court can be developed so that the nations can be persuaded each to contribute a small percentage of their military forces at sea and on land to form an *International Guard or Police Force*.—Edwin Ginn.

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\*Incorporated under the laws of Massachusetts, July 12, 1910, as the International School of Peace. Name changed to World Peace Foundation, December 22, 1910.

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# JOINT DEBATE ON THE COVENANT OF PARIS

HELD AT SYMPHONY HALL, BOSTON, MARCH 19, 1919, HIS  
EXCELLENCY CALVIN COOLIDGE, GOVERNOR OF  
MASSACHUSETTS, PRESIDING.

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## THE PRESIDING OFFICER

We meet here as representatives of a great people to listen to the discussion of a great question by great men. All America has but one desire, the security of the peace by facts and by parchment which her brave sons have wrought by the sword. It is a duty we owe alike to the living and the dead.

Fortunate is Massachusetts that she has among her sons two men so eminently trained for the task of our enlightenment, a senior Senator of the Commonwealth and the President of a university established in her Constitution.

Wherever statesmen gather, wherever men love letters, this day's discussion will be read and pondered. Of these men, great in learning and experience, wise in the science and practice of government, the first to address you is a Senator distinguished at home and famous everywhere—Henry Cabot Lodge.

## HENRY CABOT LODGE

YOUR EXCELLENCY, LADIES AND GENTLEMEN, MY FELLOW  
AMERICANS:

I am largely indebted to President Lowell for this opportunity to address this great audience. He and I are friends of many years, both Republicans. He is the President of our great university, one of the most important and influential places in the United States. He is also an eminent student and historian of politics and government. He and I may differ as to methods in

this great question now before the people, but I am sure that in regard to the security of the peace of the world and the welfare of the United States we do not differ in purpose.

I am going to say a single word, if you will permit me, as to my own position. I have tried to state it over and over again. I thought I had stated it in plain English. But there are those who find in misrepresentation a convenient weapon for controversy, and there are others, most excellent people, who perhaps have not seen what I have said and who possibly have misunderstood me.

It has been said that I am against a League of Nations. I am not; far from it. I am anxious to have the nations, the free nations of the world, united in a league, as we call it, a society, as the French call it, but united, to do all that can be done to secure the future peace of the world and to bring about a general disarmament.

#### EARLY SPEECHES IN FAVOR OF LEAGUE

I have also been charged with inconsistency. In the autumn of 1914, Theodore Roosevelt made a speech in which he brought forward the idea of a League of Nations for the prevention of future wars. In the following June, of 1915, speaking at Union College in New York on Commencement, I took up the same idea and discussed the establishment of a League of Nations backed by force. I spoke of it only in general terms. I spoke again in favor of it in the following winter before the meeting of the League to Enforce Peace.

But the more I reflected upon it and the more I studied it the more difficult the problem appeared to me. It became very clear to me that in trying to do too much we might lose all; that there were many obstacles and many dangers in the way; and that it would require the greatest skill and self-restraint on the part of the nations to make any league that would really promote and strengthen and make more secure the peace of the world.

In January, 1917, the President of the United States brought forward a plan for a League to Enforce Peace in an address to the Senate, and I discussed it at some length, showing the dangers

of the proposition and the perils which it would bring, not only to peace but to the United States.

During all this time, I may say, I was in consultation or I was talking with Theodore Roosevelt in regard to it. His position and mine did not then differ.

On December 21 I made a speech in the Senate in which I discussed the 14 points and some of the momentous questions raised by the proposition for a League of Nations.

### ROOSEVELT GAVE ATTITUDE FULL APPROVAL

Colonel Roosevelt wrote an article in the *Kansas City Star* upon that speech, approving it and commending it. I read a single paragraph from it:

Our need is not as great as that of the vast scattered British Empire, for our domains are pretty much in a ring fence. We ought not to undertake the task of policing Europe, Asia and Northern Africa; neither ought we to permit any interference with the Monroe doctrine, or any attempt by Europe or Asia to police America. Mexico is our Balkan Peninsula. Some day we will have to deal with it. All the coasts and islands which in any way approach the Panama Canal must be dealt with by this nation, and by this nation in accordance with the Monroe doctrine.

On January 3 of the present year—the Friday before his death—he dictated another editorial which appeared in the *Kansas City Star* after his death. I wish time would permit me to read it all, but I will read only one paragraph:

. . . Let each nation reserve to itself and for its own decision, and let it clearly set forth, questions which are nonjusticiable. . . . Finally, make it perfectly clear that we do not intend to take a position of an international Meddlesome Mattie. The American people do not wish to go into an overseas war unless for a very great cause, and where the issue is absolutely plain. Therefore, we do not wish to undertake the responsibility of sending our gallant young men to die in obscure fights in the Balkans or in Central Europe, or in a war we do not approve of. Moreover, the American people do not intend to give up the Monroe doctrine. Let civilized Europe and Asia introduce some kind of police system in



the weak and disorderly countries at their thresholds. But let the United States treat Mexico as our Balkan Peninsula and refuse to allow European or Asiatic powers to interfere on this continent in any way that implies permanent or semi-permanent possession. Every one of our Allies will with delight grant this request if President Wilson chooses to make it, and it will be a great misfortune if it is not made.

Two weeks before his death I was with Theodore Roosevelt for some hours, seeing him for two mornings in succession. The draft now before the country was not then before us, but we discussed fully the League of Nations in all its bearings. We were in entire agreement.

The position that I have taken, and now take, had his full approval. The line I have followed in the Senate and elsewhere was the one he wished to have followed. I do not say this to transfer any responsibility from my shoulders to his. All I do and all I say is on my own responsibility alone. But it is a help and a strength to me to feel that I have behind me the approval, the support of the great American, the great patriot, the great man whose death has been such a grievous loss, not only to the United States, but to the entire world in this hour.

#### TAKES UP ALLEGED INCONSISTENCY

Now, just a word in regard to inconsistency. I do not think I have been inconsistent, but it does not matter whether I have or not. Individual inconsistencies have no relation to the merits of any question. If nobody ever changed their minds, it would be a stagnant world. The only difficulty comes, as it comes with many habits, harmless in moderation, but dangerous in excess.

When inconsistencies become excessive they are apt to suggest self-seeking and insincerity or lack of real conviction. I think it is hardly worth while to discuss inconsistencies. No one can tell where the discussion may lead.

On May 6, 1914, at the unveiling of the Barry monument in Washington, President Wilson said:

There are just as vital things stirring now that concern the existence of the nation as were stirring then, and every man who worthily stands in this presence should examine himself and see whether he has the full conception of what it means that America should live her own life. Washington saw it when he wrote his Farewell Address. It was not merely because of passing and transient circumstances that Washington said that we must keep from entangling alliances.

I pause a moment to say that Washington did not say that we should keep clear from entangling alliances in the Farewell Address. He said that we should keep clear of permanent alliances, and that temporary alliances would be sufficient to meet an emergency—as they were in the war just closed.

I merely mention this because the phrase “entangling alliances,” which is so familiar to the country, was the utterance of Thomas Jefferson in his first inaugural. He warned us from entangling alliances. He, too, like Washington, I know is considered antiquated by many people. I merely recall it for the benefit of Jeffersonian Democrats, if any still survive.

In Washington on January 6, 1916, addressing the Pan American Congress, President Wilson said:

The Monroe doctrine was proclaimed by the United States on her own authority. It always has been maintained and always will be maintained upon her own responsibility.

I think I am not to blame for wishing it to be maintained now.

#### ALL AGREED IN DESIRING PEACE

Now, ladies and gentlemen, we are all agreed in desiring the security of the peace of the world. I am not going to argue such a question as that. We all hate war, and let me say to you that nobody can hate or abhor war more than those upon whose shoulders rested the dread responsibility of declaring war and sending forth the flower of our youth to battle. A man who has once borne that responsibility never can forget it. I should no more think of arguing to you that peace is better than war than I should think of insulting your intelligence by arguing that virtue is bet-

ter than vice. We may dismiss it. We are equally desirous, I think, most of us certainly are desirous of doing all we can, through a union, or league, or alliance of the nations, to make the peace of the world secure—more secure, at all events, than it has ever been before. I will not stop to argue that.

The question before us, the only question of a practical nature, is whether the League that has been drafted by the Commission of the Peace Conference and laid before it will tend to secure the peace of the world as it stands, and whether it is just and fair to the United States of America. That is the question, and I want now, very briefly, to bring it to the test.

Wars between nations come from contacts. A nation with which we have no contact is a nation with which we should never fight. But contacts, foreign relations between nations are necessary and inevitable, and the object of all diplomacy and statesmanship is to make these contacts and relations as harmonious as possible, because in these contacts is found the origin of all war.

In this scheme for a League now before us we create a number of new contracts, a number of new relations, which nations have not undertaken before to create.

#### LEAGUES OF HISTORY NOT VERY SUCCESSFUL

There have been many leagues. There is nothing new in the idea of a league. They go back to the days of Greece. There is the Peace of Westphalia, the League of Cambrai. I believe there are some 30 altogether in the pages of history, none of them very successful. And in the Holy Alliance of 1815 another attempt was made, and that time a league to preserve peace. But we are approaching this League on a different basis and on a different theory from any I believe ever attempted. We are reaching for a great object, playing for a great stake. But we are creating new contacts. Therefore, we should examine all the propositions with the utmost care before we give an assent to them.

I take first the form of the draft without regard to its substance. There were four drafts presented to the Commission, one by Italy, one by France, one by the United States, and one

by Great Britain. The British draft was the one selected. You can find in the treaty, if you will compare it with the plan put forth by General Smuts in January, that some paragraphs were taken from his plan with but slight changes. How nearly the draft presented conforms to the British draft we have no means of knowing.

#### DRAFT OBSCURELY AND LOOSELY DRAWN

The drafts offered by the other countries have never been discussed, although we are living in the era of "open covenants openly arrived at." I hope in the course of a few years that those drafts may appear in the volumes published by Congress which contain an account of our foreign relations. The draft appears to me, and I think to anyone who has examined it with care, to have been very loosely and obscurely drawn. It seems to me that Lord Robert Cecil, who I believe is principally responsible for it, should have put it in the hands of a parliamentary draftsman before it was submitted. A constitution or a treaty ought to be in legal, statutory or constitutional language, and not in the language selected for this purpose.

The language of that draft is of immense importance, because it is necessary that there should be just as few differences of opinion as to the meaning of the articles of that draft as human ingenuity can provide against. No man, be he president or senator, can fix what the interpretation of that draft is.

The draft itself, the articles themselves, should answer as far as possible all questions. There is no court to pass upon them. They would have to be decided by the nine powers whose representatives compose the Executive Council. The people who are for this draft of a League and those who are against it differ about the construction of nearly every article. And, not only that, but those who are for it differ among themselves, and those who are against it differ among themselves, as to its construction. There will be differences arising out of that very porous instrument. There will be differences arising before a twelvemonth has passed among the very nations that signed it.

Mr. Taft said on the 7th of March:

Undoubtedly the Covenant needs revision. It is not symmetrically arranged, its meaning has to be dug out and the language is ponderous and in diplomatic patois.

I have said nothing about the draft as severe or as well put and as thoroughly descriptive as that.

Lately the phrase has been much used, especially when an answer was not very easy, that criticism must be constructive, not destructive. It was a convenient way of answering awkward questions and evidently those who use it, and use it freely, have never stopped to think that there are some cases where criticism must be constructive as well as destructive and some where it must be destructive alone. For instance, in discussing slavery we criticise it in order to kill, and we do not expect that a substitute shall be offered for it. If a burglar breaks into my house and threatens the death of my wife and children, I should try if I could to shoot him. That is destructive criticism, and I should not think it necessary to precede it with a proposition that he should engage in some other and less dangerous occupation.

#### REDRAFT LEAGUE IN PLAIN LANGUAGE

Now this is a case where constructive criticism is clearly needed, and my first constructive criticism is that this League ought to be redrafted and put in language that everybody can understand. By doing that you will remove at once many causes of difference and dispute, and you want the instrument to diminish disputes, and increase harmony, because its purpose is to promote peace.

Another point which applies not only to the necessity of clear and definite language in the great instrument, but to the whole treaty, or to any treaty or any alliance or league that we make, and that is to remember this—that the sanctity of treaties is above everything else important. Whatever a country agrees to, that the country must maintain.

The sanctity of treaties lies at the basis of all peace, and there-

fore we must be as careful as possible to remove all chances of disagreement arising out of conflicting interpretations of language.

As I have said, my first constructive criticism is that we should have a revision of the language and form of the draft.

Now, in discussing the draft of the League I can only deal with the most important points. To analyze those articles of that League as they should be analyzed would take many hours.

But I will speak of one point which runs all through it, and that is that there are so many places where it says that the Executive Council—which is the real seat of authority—the Executive Council shall recommend, or advise, or propose measures, and it fails to say by what vote they shall do it. There are one or two places where it is stated there shall be a two-thirds vote, another case where it shall be unanimous; but in most cases it is not stated.

Now, either there should be a clause in there saying that where not otherwise stated, the decision of the Executive Council shall be by a majority vote, or else it ought to be expressed in every article where they are called upon to make a recommendation, or a proposal, or a decision of any kind.

Again let me quote from Mr. Taft. He says, speaking of ambiguous phrases:

One of these, for instance, is in respect to the Executive Council. Will it need a unanimous vote or will a majority vote be sufficient, where there is no specification?

That puts the point extremely well, and I think there should be another change. I offer that as a second constructive criticism.

### MONROE DOCTRINE DIFFERENTIATES HEMISPHERES

I now come to what seems to me a very vital point indeed, and that is the Monroe doctrine. I shall not undertake to trace the history of the doctrine or of its development since Mr. Monroe first declared it. But in its essence it rests upon the proposition of separating the Americas from Europe in all matters political. It rests on the differentiation of the American hemisphere from



Europe, and therefore I have found it difficult to understand an argument first advanced with more confidence, perhaps, than it is now—that we preserve the Monroe doctrine by extending it. The Monroe doctrine was the invisible line that we drew around the American hemisphere. It was the fence that we put around it to exclude other nations from meddling in American affairs, and I have never been able to get it through my head how you can preserve a fence by taking it down.

The Monroe doctrine is the corollary of Washington's foreign policy declared in the Farewell Address. I am not going to base any argument upon it, but it is a mistake to consider the policy laid down by Washington and Monroe as ephemeral and necessarily transient. As Mr. Wilson well said, Washington's doctrine was not transient. It may be wrong; the time may have come to discard it; but it is not ephemeral because it rests on two permanent facts—human nature and geography.

Human nature, you may say, has changed. When you study the history of the past, as far as we have a history, there is a curious similarity in it at all stages. But one thing is certain,—not even the wisest and most optimistic of reformers can change the geography of the globe. They say communication has quickened enormously. The Atlantic Ocean is not what it was as a barrier, or the Pacific either, I suppose. But do not forget that even under modern conditions the silver streak, the little Channel only 20 miles wide, was England's bulwark and defense in this last war. Do not underrate the 3,000 miles of Atlantic. It was on that that the Monroe doctrine, the corollary of Washington's policy, rested.

Great systems of morality and philosophy have been taught and preached, two thousand, twenty-five hundred, three thousand years ago. They may be wrong. But they are neither transient nor ephemeral because they rest upon the eternal verities. And when you come to discard a policy like that it is well to realize what you are abandoning and what its importance is.

The Monroe doctrine has been expanded. A resolution was passed unanimously in the Senate a few years ago stating that

the United States would regard it as an act of hostility for any corporation or association or any other nation to take possession of Magdalena Bay, being a post of great strategic, naval and military advantage. That did not rest on the Monroe doctrine. It rested on something deeper than that. It rested on the basis of the Monroe doctrine, the great law of self-preservation. They say that if we demand the exclusion of the Monroe doctrine from the operation of the League, they will demand compensation. Very well. Let them exclude us from meddling in Europe. That is not a burden that we are seeking to bear. We are ready to go there at any time to save the world from barbarism and tyranny, but we are not thirsting to interfere in every obscure quarrel that may spring up in the Balkans.

Mr. Taft says that the Covenant "should be made more definite by a larger reservation of the Monroe doctrine." I agree entirely. I offer that as my third constructive criticism, that there should be a larger reservation of the Monroe doctrine, and when the leading advocate of this draft takes that position it seems to me it can not be a very unreasonable one.

#### DENIES FOREIGN JURISDICTION OVER IMMIGRATION

There is the question of immigration which this treaty reaches under the nonjusticiable questions. I am told and I believe (I have followed it through all the windings) that a final decision could only be reached by unanimity, and it is said that the League would not be unanimous. I think that highly probable, but I deny the jurisdiction. I cannot personally accede to the proposition that other nations, that a body of men in executive council where we as a nation have but one vote, shall have any power, unanimous or otherwise, to say who shall come into the United States. It must not be within the jurisdiction of the League at all. It lies at the foundation of national character and national well-being. There should be no possible jurisdiction over the power which defends this country from a flood of Japanese, Chinese and Hindu labor.

The tariff is involved in the article for the boycott. The coast-wise trade is involved in Art. XXI. I think we ought to settle our own import duties. They say it is a domestic question. So it is, so is immigration; but they are domestic questions with international relations.

Moreover—and I know some people think this is a far-fetched objection—having other nations meddle with our tariff runs up against a provision of the Constitution. The Constitution provides that all revenue bills shall originate in the House of Representatives. Now I do not offer that as a final objection. No doubt we could amend our Constitution to fit the League, but it would take some time; and I think it is better to steer clear of the Constitution in cases like that.

And I offer an amendment, already proposed by Senator Owen of Oklahoma, an ardent Democrat, and a supporter of the League, to exclude international questions of the character of immigration and the tariff from the jurisdiction of the League. I present that as a fourth constructive criticism.

#### NO PROVISION FOR GETTING OUT

This treaty is indissoluble. There is no provision for withdrawal or termination. In the old days—very old days—they were in the habit of beginning treaties by swearing eternal friendship, which made them last no longer. That has been given up. In modern times almost all the treaties that we now have contain provisions for termination or withdrawal on notice. If there is no provision for withdrawal you are thrown back on denunciation or abrogation by one nation.

I have been surprised to hear in the Senate and elsewhere the statement that this was only a treaty and that we could abrogate it by an act of Congress at any time,—as we can under the decisions of the Supreme Court.

Why, ladies and gentlemen, nothing could be worse than that. No greater misfortune could befall the peace of the world than to have a nation, especially a powerful nation, abrogate the treaty.

It is usually a preliminary to war. It is in many cases, at least. There ought to be some provision by which a withdrawal could be effected without any breach of the peace or any injury to the cause.

Mr. Taft says: "The Covenant should also be made more definite as to when its obligations may be terminated." I offer that as another constructive criticism.

### MANDATORY RESPONSIBILITY GRAVE

I am obliged to move rapidly for my time is expiring, but there are two great points that I cannot leave wholly untouched.

One is Art. XIX, providing for mandatories. It does not say who shall select the mandatory. The provision is, that a nation may be selected to take charge of a weak or a backward people and be appointed by the League to that work. It has been suggested that we should take charge of Constantinople; that we should take charge of Armenia and Mesopotamia and Syria. I am not going to argue it at length. I am not as deeply opposed to that provision as many others—as most other people are, as I believe the American people are. But it is a very grave responsibility to take charge of some distant people, furnish them with civilians to carry on their government, furnish them with an army to protect them, and send our young men away on that business. We have done it in Haiti, we have done it in San Domingo, we have done it in Nicaragua, and are doing it now. That is all within the Monroe doctrine; that is all within our own "ring fence." We must do it; we owe it to the world, and we are quite capable of doing it successfully. But this is a demand to go out through Asia, Africa and Europe and take up the tutelage of other people.

### GUARANTY ARTICLE MOST IMPORTANT OF ALL

Then comes Art. X. That is the most important article in the whole treaty. That is the one that I want the American people to consider, take it to their homes and their firesides, dis-

cuss it, think of it. If they commend it the treaty will be ratified and proclaimed with that in it. But think of it first, think well. This article pledges us to guarantee the political independence and the territorial integrity against external aggression of every nation a member of the League. That is, every nation of the earth. We ask no guaranties, we have no endangered frontiers; but we are asked to guarantee the territorial integrity of every nation, practically, in the world—it will be when the League is complete. As it is to-day, we guarantee the territorial integrity and political independence of every part of the far-flung British Empire.

Now mark! A guaranty is never invoked except when force is needed. If we guaranteed one country in South America alone, if we were the only guarantor, and we guaranteed but one country, we should be bound to go to the relief of that country with army and navy. We, under that clause of this treaty—it is one of the few that is perfectly clear—under that clause of the treaty we have got to take our army and our navy and go to war with any country which attempts aggression upon the territorial integrity of another member of the League.

Now, guaranties must be fulfilled. They are sacred promises,—it has been said only morally binding. Why, that is all there is to a treaty between great nations. If they are not morally binding they are nothing but “scraps of paper.” If the United States agrees to Art. X, we must carry it out in letter and in spirit; and if it is agreed to I should insist that we did so, because the honor and good faith of our country would be at stake.

Now, that is a tremendous promise to make. I ask those—the fathers and the mothers, the sisters and the wives and the sweethearts, whether they are ready yet to guarantee the political independence and territorial integrity of every nation on earth against external aggression, and to send the hope of their families, the hope of the nation, the best of our youth, forth into the world on that errand?

If they are, it will be done. If the American people is not ready to do it that article will have to go out of the treaty or be limited.

## FRANCE COULD NOT HAVE HELPED IN REVOLUTION

If that League with that article had existed in the eighteenth century, France could not have assisted this country to win the Revolution. If that League had existed in 1898 we could not have interfered and rescued Cuba from the clutches of Spain; we should have brought a war on with all the other nations of the world.

Perhaps the time has come to do it. I only wish to-night to call your attention to the gravity of that promise. To what it means, that it is morally binding, that there is no escape when a guaranty of that sort is invoked. Think it over well; that is all I ask. Consider it. And remember that we must make no promise, enter into no agreement, which we are not going to carry out in letter and in spirit without restriction and without deduction.



## THE PRESIDING OFFICER

The next to address you is the President of Harvard University,—an educator renowned throughout the world, a learned student of statesmanship, endowed with a wisdom which has made him a leader of men, truly a Master of Arts, eminently a Doctor of Laws, a fitting representative of the Massachusetts domain of letters,—Abbott Lawrence Lowell.

## A. LAWRENCE LOWELL

Senator Lodge has been so long in public life and has rendered such eminent services, that I regard him not only as a statesman, but almost as an institution. For his ability and courage I have the highest respect, and I have usually been in accord with his opinions. Moreover I have always been inconsistently Republican. But, although I suspect that we differ much less about a League of Nations than might appear on the surface, I cannot agree with his utterances, and still less with those of some of his senatorial colleagues, on the draft of a Covenant reported to the Conference at Paris. We both feel that this Covenant is, as it stands, defective, but the difference is that I feel that when those defects have been removed, the Covenant ought to be ratified,—and he does not tell us whether he thinks so or not.

Few, if any, Americans hold the doctrine, propounded by certain German writers, that war is in itself good. Few do not desire peace among men; and it would probably be safe to go farther and say that the vast majority of our people welcome the idea of a League of Nations to prevent war, even if it involves some inconvenience for us. There is naturally, however, much difference of opinion about the form such a league should take; and any concrete plan that could be presented would not accord entirely with most men's preconceived ideas, if they have any; or, if they have not, would involve difficulties that they had not foreseen as inevitable; with the result that criticism breaks forth

in abundance. This has been, and must always be, true of every step in human progress. Every advance goes through the stages of general aspiration, of concrete plan and of sharp criticism, before it becomes established. The process is normal, healthy and instructive.

### ESSENTIALS OF AN EFFECTIVE LEAGUE TO PREVENT WAR

Before examining the nature of the plan proposed in the Covenant of Paris it may be well to consider the minimum essentials of an effective League of Nations to prevent war. Everyone will agree that such a league must forbid a resort to arms before submitting the question in dispute to a public trial, arbitration or inquiry of some kind; and probably it ought also to forbid a resort to arms after an award which is universally believed to be right and just. Such a delay before hostilities will not prevent all wars, but it will make them much less common, and it will wholly prevent a nation from deliberately planning a war, as Germany did, and seeking the advantage of surprise when its victims are unprepared. It is generally assumed that, if Germany had not possessed that advantage, she would not have gone to war. Obviously, the submission to arbitration must be compulsory, for if not, the condition is nowise different from what it has been hitherto; and the compulsion,—the sanction, as the lawyers say,—the punishment for the offender, must be such that no nation would venture to incur it; for the more severe, the more certain, the more immediate the penalty, the less the chance that any bellicose nation would run the risk. The country that goes to war before submitting its case to arbitration must be regarded as a criminal against mankind, and treated instantly as an outlaw and a common enemy by the rest of the world, or by those nations which bind themselves together for the maintenance of order. For this reason the League to Enforce Peace has always insisted that the penalty should not be decreed by a council of the League, which would involve delay, possible disagreement and inaction; but automatically, that is, the members

of the League should bind themselves jointly and severally to resist the aggressor at once. In this way the members would stand together, and an attack on one would be *ipso facto* an attack on all; and if the League contained, as we expect, by far the greater part of the world, no nation would, for a moment, contemplate war with such a coalition; and therefore wars would not occur before arbitration.

The principle should apply not only to disputes among the members of the League, but also to dissensions between other nations not belonging to the League, because war, like fire, has a tendency to spread, and no one in a community has a right to start a conflagration which his neighbors have not a right to put out.

#### VALUE OF COUNCILS FOR CONFERENCE BUT NO POWER

Although the penalty against the aggressor is automatic in the sense that it does not depend upon the action of an international council, nevertheless such a council for purposes, not of command, but of consultation, is highly beneficial. It tends to remove friction by enabling nations to understand one another's point of view, and to reconcile or adjust differences before they reach an acute stage. Most plans for a League of Nations have, I believe, proposed two such bodies: one large and comprehensive, for the discussion of general problems, with an opportunity for the presentation of all possible opinions, but too large for confidential interchange of ideas; the other smaller, representing mainly those countries on whom the burden, in case of breach of the peace, would chiefly rest, a body small enough to work out in detail recommendations to be submitted to the members of the League for acceptance, modification or rejection.

Senator Lodge says that if people get together to talk over things they are making points of contact, and points of contact are points of friction. When Voltaire read Rousseau's book on "The Natural Man" he said: "You make me feel like going back to the woods and walking on all fours." If in order to avoid points of friction we must isolate the nations, why not isolate every

individual? Points whereby men get together are not points of friction. The more men can get together the less, on the whole, they disagree. It is the lone traveler, it is the lone brigand, it is the lone man out on the plains who carries a rifle across his saddle-bow and a pistol in his holster who is likely to fight another man when he comes in contact with him; not the man in the great city.

It is idle to suppose that because you have a conference of men who meet together that they are likely to foment strife among themselves. On the contrary, they talk over their difficulties, and what is far more important than anything else, they learn one another's point of view. We try to encourage men to travel in other countries, because it creates points of contact and reduces points of friction. Because it makes people understand one another and tends on the whole to the peace of the world.

Let us, therefore, have all the points of contact that we can, and in such an imaginary League as I have suggested we shall not only have an arrangement by which nations will stop war, but by which they will have the utmost opportunity of talking over their difficulties. Let us have councils; councils with no authority, if you please, but councils to talk.

It will, I think, be generally agreed by all persons who desire a League of Nations that these points are the essential minimum of any league that can be effective in preventing war. Let us now examine how far the Covenant of Paris covers these points and what else it covers.

#### THE COVENANT DEFECTIVELY DRAFTED

The Covenant is very defective in its drafting. In places it is so obscure that the meaning is often inaccurately expressed and sometimes doubtful. It is easily misunderstood, and has in fact been widely misunderstood. To give a single example of what must be defective drafting, Article XVI provides that if any country resorts to war in disregard of its Covenant, the members of the League shall immediately prevent all financial, commercial and personal intercourse between the nationals (that is,

the citizens) of the covenant breaking state and the nationals of any other state, whether a member of the League or not. It is not difficult for members of the League to prevent their own citizens from trading with the citizens of the offending country, but how about the citizens of other countries not members of the League? No doubt the framers of this clause had in mind a blockade; but what if the offender's land frontiers border upon countries not members of the League? Suppose, for example, that the new state of Poland should, contrary to her Covenant, attack Czecho-Slovakia. How are the leagued nations to prevent the Poles from trading with the Russians and Germans on the East and West? Apparently something here is wrong.

The meaning of the Covenant should be made perfectly certain, and we may assume that every effort will be made to effect this, because when people know what they intend, and want the whole world to know what they intend, they are naturally willing to make their meaning clear.

#### THE COVENANT IS ONLY A DRAFT

Let us remember that in its present shape the Covenant is intended only as a draft, subject to correction; for if it were regarded as finished and unchangeable, it would not have been given out until submitted for ratification. It is defective as is all unfinished legislation that embodies much of compromise. For the first time we have an experiment in open diplomacy, the public being admitted to inspect the process before it is completed. It would certainly be unfortunate for that experiment if criticism of the draft were purely destructive; and yet we have had little criticism of a constructive character. From those, and they are many, who profess to believe in a League of Nations, but not in this particular plan, we have heard little or nothing of the way this plan could be improved to meet their views. Criticism seems to have been left almost wholly to those who object to a League of Nations altogether.

I agree fully with Senator Lodge that if you see a burglar entering your house you shoot him, but you shoot him not for the

purpose of improving the burglar—it is because you do not wish to improve the burglar. Of course, if you look on this treaty as a burglar, shoot it; but, for goodness' sake, say you are trying to shoot it and not that you are trying to improve it by destructive criticism.

WHEN THE INTENT IS CLEAR THE COVENANT MEANS WHAT  
IT SAYS

Having observed that the drafting of the Covenant is defective, I am not further concerned here with pointing out errors or suggesting improvements in drafting, but with the substance of the plan—with the character of the League which the representatives of 14 nations agreed upon unanimously. But I should like to suggest one amendment that would not change in the least the meaning of the Covenant where its wording is precise, but would greatly clarify further discussion, and remove many objections raised by Senators. It would consist of an additional article reading as follows:

“The obligations assumed by the members of the League are only those which they agree to assume by this Covenant, and not others which they do not hereby agree to assume. Furthermore, the powers possessed by the organs of the League are those, and only those, conferred upon them by this Covenant.”

Or the same thing might be expressed more briefly thus: “Where its intent is clear, this Covenant means what it says, and not something else.”

In spite of all its defects in drafting such a clause would help some of our opponents to construe the document. In my argument I shall assume that this clause has been added to the Covenant, or is unnecessary. For example, when the Covenant says that the Executive Council of the League shall “advise” or “recommend” or “determine for the consideration and action of the several governments” or “formulate plans” or “propose measures,” I assume that it means what it says. To advise or recommend means to suggest, to propose, to advocate—in short, to recommend—for consideration by someone else, not to give



an order to someone who is obliged to obey; and when the members of the League agree that their Executive Council may advise or recommend a course of action, they agree to consider that recommendation, but they assume no obligation, legal or moral, to follow it if they do not approve of it. Much of the misunderstanding of the plan prepared in Paris has come from a failure to keep this fact in mind,—and yet it would seem fairly obvious.

### OBLIGATIONS ASSUMED BY THE MEMBERS OF THE LEAGUE

By the Covenant the members of the League assume several grave obligations. Senator Lodge did not put in the least too severely, too weightily, the gravity of the duties which the members are to undertake. The question is whether, grave as they are, they are worth undertaking for the sake of preventing war—that is the question which we shall have to face.

Now, in order to understand what they are I shall have to weary your patience a little by going through that document and telling you what they are, and I will ask you to listen patiently, because the whole question of what we are to do depends upon what we actually agree to do.

We may here observe that the attempt to make out different classes of members, distinguished as protocol members, signatories, high contracting parties and simple members, has no foundation in the language of the Covenant. The high contracting parties are the nations that make the agreement, sign it and are to be mentioned in its protocol. They are all the members, and the only members, of the League, until new members are admitted with the same full rights of membership. The only difference between the members is that the five chief powers have the privilege of being always represented on the Executive Council.

The principal obligations assumed by the members of the League are:

“To respect and preserve as against external aggression the territorial integrity and existing political independence” of the members of the League (Art. X).

(I do not mean to comment as I go along, but Senator Lodge has referred to this and said that if it had been in existence we could not have taken Cuba, that France could not have joined against England with us in the Revolutionary War. But I want merely to add that had there been such a League with this provision the late war could not have occurred. Was the Spanish War by which we freed Cuba worth this war? That is the sort of question that we have to decide.)

To submit any disputes that shall arise between them to arbitration (Art. XIII), or to inquiry by the Executive Council, or in certain cases to the Body of Delegates, and communicate to the Secretary General of the League for publication a statement of the case, with all the relevant facts and papers (Art. XV).

To carry out in full good faith the award of an arbitration if they voluntarily agree to go to arbitration (Art. XIII); (but it may be observed that they do not agree to comply with the result of an inquiry by the Executive Council or the Body of Delegates).

Not to resort to war against any other member of the League without previously submitting the matter to arbitration or inquiry, or until three months after the award; nor to go to war with a member of the League that complies with the award (Art. XII) or with a recommendation of the Executive Council or Body of Delegates which is unanimous (except for the parties to the dispute) (Art. XV).

### THE SANCTIONS, OR PENALTIES FOR OFFENDERS

Then come the sanctions, that is, the provisions for enforcement or punishment for breach of these covenants. These are contained in Article XVI, which provides that, should any member of the League break or disregard its agreement not to go to war without arbitration, or not to go to war with a member that complies with the award or unanimous recommendation, "it shall thereby *ipso facto* be deemed to have committed an act of war against all the other members of the League, which hereby undertakes immediately to subject it to the severance of all trade and

financial relations, and the prohibition of all intercourse between their nationals and the nationals of the covenant breaking state, etc." The members "agree, further, that they will mutually support one another in the financial and economic measures that may be taken"; "that they will mutually support one another in resisting any special measures aimed at one of their number"; and "that they will afford passage through their territory to the forces of any of the high contracting parties who are co-operating to protect the covenants of the League."

### OBLIGATION TO GO TO WAR?

This is an agreement for an immediate and automatic boycott, or outlawry, of the offending state by the members of the League, —certainly a vigorous form of sanction, highly unlikely to be defied, the more so, as it would almost inevitably involve war with all the nations in the League. Whether it was intended that the state which, in violation of the Covenant, levied war on one member of the League should be *ipso facto* at war with all the rest does not seem to me clear. The Covenant does not say so, for an act of war is not necessarily a state of war; and yet the provisions about mutually supporting one another against attacks, about the passage of troops, and a clause in the same article that the Executive Council shall recommend what "military or naval force the members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League," seem to contemplate a general war in such a case.

Moreover, M. Bourgeois, the only one of the four members of the Committee speaking on the presentation of the draft whose remarks throw any light upon this point, said: "Take a state that violates the international covenant. That state is supposed to be in a state of war against all the members of the League." It seems to me that it would be wiser to have it so, because the fact that an attack against any member would automatically mean war with all the others would be a stronger deterrent, would render such an attack, and the general war it would inevit-

ably entail, even more remotely improbable than an apparently smaller penalty. Whatever the intention, it ought, of course, to be made perfectly clear beyond the shadow of a doubt.

It may be observed that an outside power threatening war is to be treated, so far as war is concerned, in the same way as a member of the League.

We hear the dread expressed, "Are we to send our sons abroad?" But if we make an agreement of that sort and the nation which violates must go to war with the whole world, there is no danger of it whatever. There is no more danger than there is of a rough attacking a body of a dozen policemen. It does not happen, it can not happen, it will not happen. It is like this question of our being called out to defend the British Empire. If any small state attacks the British Empire the British Empire can look out for itself and we need do nothing about it. If any great nation attacks the British Empire—well, it happened this time, and we went in whether we had a treaty or not.

#### OTHER OBLIGATIONS

The members of the League agree to pay the expenses of the Secretariat in the ratio of their contributions to the Universal Postal Union (Art. V). They further agree not to conceal the condition of their industries capable of being adapted to warlike purposes, and to interchange information fully and frankly about their military and naval programs (Art. VIII). They agree to endeavor to secure fair and humane treatment of labor at home and in all countries with which they trade (Art. XX); to maintain freedom of transit and equitable treatment of commerce for all members of the League (Art. XXI); to place international bureaus under the control of the League (Art. XXII); to register all treaties, and agree that treaties until registered shall not be binding (Art. XXIII); and, finally, that all obligations among members of the League inconsistent with the Covenant are abrogated, and that no engagements inconsistent therewith shall be made.

THE OBLIGATIONS ARE DIRECT AND ABSOLUTE: NOT  
DISCRETIONARY

These, with the duty of sending its representatives, are the positive obligations assumed by the members of the League; and it may be observed that they are direct obligations upon the members to do, or abstain from, definite acts, either continuously, or on the happening of the events described; never under the orders, or by the direction, of any organ of the League. The members agree to preserve one another's integrity and independence absolutely, not when directed to do so by the League. If a member of the League is attacked before arbitration, they agree to boycott the offender immediately, not if called upon to do so by the Executive Council; and so on throughout the list. Their obligations are specified, not discretionary, still less arbitrary, on the part of any international body or authority. For the most part they are devised with the object of preventing war, and especially unjust or predatory war. In that respect they follow very closely the minimum essentials for a League of Nations to prevent war described in the opening of this address, and they seem effectively designed for the purpose.

FUNCTIONS OF THE EXECUTIVE COUNCIL

Let us now turn to the functions of the representative organs of the League. The most important of these is the Executive Council, which is to consist of representatives of the United States, the British Empire, France, Italy, Japan and of four other states that are members of the League, those states being selected by the Body of Delegates. The Executive Council so constituted is given authority to formulate plans for the reduction of armaments (Art. VIII); to advise how the evils of private manufacture of munitions can be prevented (Art. VIII); to advise upon the means by which the integrity and independence of the members of the League may be preserved in case of aggression, or danger thereof (Art. X); to propose what shall be done if a state fails to carry out the award of an arbitration by which it has

agreed to abide (Art. XIII); to formulate plans for a permanent court of international justice (Art. XIV); to inquire into disputes between states and make recommendations thereon (or refer the matter to the Body of Delegates for inquiry), and to propose measures to give effect to its own unanimous recommendations in such cases (Art. XV). If a state goes to war contrary to its covenants and thereby draws upon itself the sanction provided in the agreement of the members, it is the duty of the Executive Council to recommend what military or naval forces the members of the League shall severally contribute to protect the covenants of the League (Art. XVI). The Council can further prescribe the conditions upon which a state not a member of the League shall accept the obligations of membership for the purpose of a particular dispute, and in case of refusal it may take such action and make such recommendations as will prevent hostilities (Art. XVII).

#### POWERS OF THE COUNCIL PURELY ADVISORY

So far the authority of the Executive Council, with regard to the members of the League, is strictly limited to consultation and making recommendations, which the members of the League are under no obligation to accept unless they please.

#### EXCEPT IN THREE CASES

I can, in fact, find only three cases in which the Council is given the power to make any orders, regulations or decisions binding upon the members of the League or limiting their freedom of action. The first of these arises when the Council acting in a judicial or arbitral capacity makes a recommendation which is unanimous, except for the parties to the dispute. In that case a state is bound not to go to war with any party that complies with the recommendation, and to take part in the punishment of any other state that goes to war with a party so complying (Art. XV). To that extent a unanimous decision of the Council in case of a dispute is binding on the members of the League, and no one would probably desire that it should be otherwise.



Another case of a binding decision relates to the reduction of armaments. When the Council has determined, for the consideration and action of the several Governments, what armament is fair and reasonable, and the plan is adopted by them, the limits thus adopted by those Governments can not afterward be exceeded without the permission of the Council (Art. VIII). In this case the Covenant forbids a member of the League to increase its armament without the approval of the Council, but only after the member has specially and voluntarily consented to a general plan of reduction.

### THE POSITION OF A MANDATORY

The third case is that of a mandatory for a backward people. "The degree of authority, control or administration to be exercised by the mandatory state" is to "be explicitly defined in each case by the Executive Council in a special act or charter" (Art. XIX). It has been asserted that a state selected as a mandatory (presumably by the Executive Council, although this is not expressly stated), is under an obligation to accept. I can find in the Covenant no provision to that effect, expressed or implied; nor would such an obligation appear reasonable. To suppose that the representatives of France, Italy, the United States or any other of the 14 states on the Committee intended that if the Council should select their country as mandatory to take charge of Russia it would be obliged to accept, seems to me in the highest degree improbable, and the same thing is true of less difficult mandates. It is a general principle that in any document an intention, not expressed and in itself irrational, is not to be implied. No doubt a spirit of fairness would prevent a nation, engaged with others in a common effort for human welfare, from shirking all burdens it has not expressly agreed to assume; but that is a very different thing from an obligation to accept any burden that may be thrust upon it. The matter should, of course, be made perfectly clear in the final draft.

The principle of mandatories seems to me highly meritorious. It has, I understand, two objects, one to prevent maltreatment of

the native population, and the other to prevent a selfish monopoly of products that may be essential to the industry and prosperity of the world. For both these purposes there is clearly a right of collective supervision and control, at least by all the nations that have taken part in the conquest of the colonies and territories concerned. If Germany and her allies had not been beaten these possessions would not have been permanently captured; and every nation that helped to win the war helped to conquer them. Therefore we, as one of those nations that helped to acquire them, have a right, and have no less a duty, to see that they are properly administered; and there is no need of making a bugbear of it.

#### ADMINISTRATIVE FUNCTIONS OF THE COUNCIL

The remaining functions of the Executive Council are of a somewhat routine character. It regulates its own procedure (Art. IV), chooses the Secretary General, whose duties are clerical (Art. V); apparently it supervises the trade in arms with the countries in which the control of the traffic is necessary in the common interest (Art. XVIII); appoints bureaus and committees with advisory powers (Arts. IX, XIX, XX); and is to control international administrative bureaus, such as that of the Postal Union and the many others that have since been established for common convenience (Art. XXII).

#### THE BODY OF DELEGATES

The functions of the Body of Delegates are still less extensive, consisting almost entirely of the discussion of matters within the sphere of action of the League. The only cases—apart from the regulation of its own procedure—where it is given power to make binding decisions, are the selection of the four countries, which, in addition to the five chief powers, are to have seats in the Executive Council; and the case where a matter in dispute between two states is referred to the Body for inquiry, in which case its recommendation has the same effect as if made by the Executive Council.

## THE NATURE OF THE LEAGUE

This analysis of the plan for a League set forth in the Covenant of Paris shows how closely it resembles the sketch of the minimum essentials of such a League in the opening of this address. It shows also that the fear of a super-sovereign body, to which we are asked to sacrifice our independence, is the creation of an overheated imagination. If we assume that the Covenant means what it says, and not something wholly different, no organ of the League has any authority to give commands to this country that need give us a moment's anxiety. The only substantial powers that any such body is to possess, beyond making recommendations which we may follow or not as we think right, are derived from a unanimous decision in an international dispute, and from the right to forbid an increase in armaments or to direct the duties of a mandate in case we first agree to the reduction of armaments, or to the assumption of the mandate.

It is sometimes asked, if the authority of the organs of the League is so insignificant, where is its efficiency in preventing war? The answer is that it lies in the obligations assumed under the Covenant directly by the several members of the League; and this is both the most effective and least adventurous method of preventing war. There are in fact two possible forms of League for this purpose.

And, mind you, let me say here, that I am not in the least concerned with, and take no interest in, the question whose plan this is. I do not care a rush whether this plan was drawn up by a citizen of the United States or of England or of France or of Spain or of Japan or of Italy, or anyone else. The question is, is it a good plan for us to adopt? I think that we merely befog the issue and raise passion by asking whose plan it was.

In the plan projected in the Covenant, the obligations of the members are precisely defined, and their treaty rights and duties arise automatically on the outbreak of war—any other action recommended after consultation being voluntary.

The other form of League to prevent war would be one where the members should agree to comply with the directions of some international body, and in that case the obligation of the members to act would not arise until after a deliberation and vote of that body.

This second form of League has two serious disadvantages. The sanction of the provision against waging war, that is, the penalty for violation of the provision, is neither immediate nor certain, but depends upon the somewhat doubtful process of discussion, where a single negative voice of a powerful nation may practically prevent action. The deterrent for the intending offender is, therefore, weaker than in the other form of League. The second disadvantage is the uncertainty in the obligations assumed by the members of the League, which depend upon the determinations of the international body. A council with such a power might without gross exaggeration be termed in some sense a super-sovereign, or rather a super-national, council; but that is not the form of League proposed by the Covenant of Paris, and criticism of this Covenant based upon a radically different kind of League from that which it projects misses the mark altogether.

#### AN OBJECTION FOUNDED ON MISUNDERSTANDING

This misunderstanding of the nature of the League proposed, and of the functions of its organs, is the foundation of most of the objections raised against the Covenant. If the United States is not subject to the orders of the Executive Council, or under any obligation to adopt its recommendations, it is senseless to talk of our being ruled by a body in which we have only one vote out of nine. The opponents of the League set up an imaginary scarecrow of their own creation, and then fire at it with great satisfaction to themselves. Their shots do not touch the real mark, although the noise may confuse the public.

Another bogey of an equally unsubstantial kind is that "England" has in the Body of Delegates six votes to our one. If the

only functions of this body are to talk, to select the four other states to be represented on the Executive Council, and to make unanimous recommendations after inquiry into a dispute, the number of votes therein is not of much consequence. Moreover, even if the British self-governing colonies are admitted as members of the League, it is by no means certain that Great Britain can always control their votes; and on the other hand—tell it not in Gath—who but the United States would practically control to-day the votes of Panama, of Nicaragua, of Haiti and of San Domingo?

### TRUE MEANING OF THE ARGUMENT FROM WASHINGTON'S POLICY

Let us now turn to the particular objections made to the entrance of the United States into this League, or indeed into any League to maintain the peace of the world. First or last the opponents of the Covenant always seek for an argument in Washington's Farewell Address. Curiously enough, I have never heard Washington's opinions, or practice, which must be well known, quoted against prohibition or some other modern innovations. It is even more strange to hear Senator Borah urge the authority of Washington against a League of Nations, but say that if the Saviour of mankind should revisit the earth and declare for such a League he would nevertheless oppose it. To the ordinary man, that Senator's ideas of authority in matters of opinion are perplexing. No sensible man would for a moment assert that if, owing to a change of conditions in the modern world, he were convinced of the utility and wisdom of a departure from the policy of Washington and the great statesmen of his day, he ought nevertheless to vote against that departure because of opinions expressed a century ago.

Senator Lodge has told us that we ought to be very cautious in abandoning a policy laid down by Washington and followed for a hundred years, and he is right, perfectly right. It does not mean that we are to be chained down to immobility by the traditions of the past regardless of changes in conditions.

That would be wholly contrary to the American spirit, and to the character of Washington himself, who was one of the greatest innovators in history, for the reason that he fixed his vision, not upon the past, but on the facts of his day and the problems of the future. Senator Lodge's caution means only this, that the burden of proof always rests upon those who advocate something new. We accept that burden of proof, and seek to show, what I believe the great mass of our countrymen feel: that the time has come when the nations should co-operate to put an end to war so far as possible; that from this humane effort the United States should not stand aloof; and that the principles embodied in the Covenant of Paris, with such amendments as can no doubt be obtained, provide the best means available for the creation of such a League. This is what we are striving to prove, and I believe that we shall prove it to the satisfaction of the American people.

Manifold things have changed since the days of Washington, and they could not help changing. And if Washington could look at things now I suppose he would do as he did then; that is, he would look them in the face and judge according to the present and the future, and not according to the past. Did not Washington depart from the whole history of our people up to that time? Up to that time our people had been ruled by England and the English king, and George Washington departed from all the old customs which had existed previously—much against the objection of many of his neighbors. And you know very well that all the land on Beacon Hill, and various other places, was confiscated because it belonged to those who did not agree with George Washington and went back under the good old customs to England.

And did not George Washington preside in the Convention that framed the Constitution? That was the greatest innovation of the time! And people argued against that in almost the same language that to-day they argue against this.



## TWO QUESTIONS TO SENATOR LODGE

As our senior Senator, and as the leader of the Republicans in the Senate, we have a right to ask Mr. Lodge two questions: *first*, whether he will, or will not, vote for the Covenant of Paris, provided it is amended as he wishes; and, *second*, what amendments thereto he desires.

Now, by the arrangement between Senator Lodge and myself, which I myself proposed, and of which I make no complaint, I have no reply here, and therefore I beg you all to notice whether he does answer those questions. The first of them can be answered Yes or No, and can be answered only Yes or No. I believe that if Senator Lodge in his position will formulate his amendments and send them to Paris, and say, "I will vote for this Covenant if those amendments are adopted," they will be adopted and the Covenant will pass.

## RIGHT TO WITHDRAW

A further objection to the Covenant is that it contains no provision for withdrawal from the League. If this is a serious cause of reluctance to its ratification there would probably be no great hesitation in adding a clause that any member might withdraw on giving a reasonable notice—let us say a couple of years—provided all its obligations were fulfilled up to the time it withdrew.

## INTENTION TO EXCLUDE DOMESTIC AFFAIRS

Another objection brought forward by the opponents of the League is that Asiatic immigration, the policy of a protective tariff, or some other matter of vital domestic interest, may form a subject of dispute with another nation, may be brought before the Executive Council for inquiry and decided against us. It would seem to be clear that the framers of the Covenant did not intend to submit to the interference of the Council the internal affairs of the members of the League, and assumed that the Council would in such questions follow the recognized principles of international law.

It can hardly be supposed that England, for example, intended that any nation should be entitled, by raising a dispute, to ask the Council to inquire into the government of the natives of India, and make recommendations for a change; or that France intended to authorize an inquiry whether or not she was justified in repealing the Concordat with the Church; or that Italy contemplated a recommendation on the restoration of the Temporal Power of the Vatican.

If it were not self-evident that purely internal affairs were intended to be left in the hands of each country as heretofore, the exceptional treatment of a couple of such subjects would prove it. Special provisions are made for reducing armaments and improving the condition of labor—matters that would otherwise be regarded in international law as domestic concerns. It is true that there is no express statement in the Covenant that internal affairs are not subject to interference by the Council, and there is no attempt to define what matters are of this nature, but it is perfectly clear that immigration and tariffs are internal affairs, and if there is any serious doubt on the question, there will doubtless be no objection to making it perfectly clear.

#### THE MONROE DOCTRINE—ITS DIFFERENT MEANINGS

Next we come to the greatest bugbear of all, the point on which popular alarm is most readily awakened by vague denunciation without definite explanation. It is the Monroe Doctrine. As one of those who have always believed strongly in this Doctrine, I understand that it means, or is by some persons supposed to mean, several different things. In its original sense it meant that no foreign nation should interfere with the independence, or seek by force to acquire any part of the territory, of any country in the American hemisphere. Taken in this sense the Covenant extends the doctrine over the whole world, or at least over all that part of it which is covered by the League.

Senator Lodge says that such an extension destroys the Monroe Doctrine. I do not quite see that. I do not see how the provision that you shall not do a thing anywhere upsets a

provision that you shall not do it in a particular place. He says that it is pulling down the fence, and that you do not preserve a fence by pulling it down. That is perfectly true if your object is to preserve the fence, but if your object is to preserve the fruits inside the fence you do not fail to preserve them by making the fence cover two orchards instead of one. And my interest in the Monroe Doctrine is not in the fence, but in the things the fence protects,—to wit, the people of these United States and the other countries of America.

#### AN AMENDMENT NEEDED

There is another later and broader sense in which the doctrine means that no foreign nation shall acquire a foothold on these continents even with the consent of the country that owns the place. This was the phase of the doctrine invoked in the case of Magdalena Bay. A Japanese company proposed to buy from Mexico a tract of land on this bay in Southern California, ultimately, as we believed, for the purpose of a Japanese naval station. Our Government objected, and the purchase was not made. Such a transaction is not forbidden by the Covenant of Paris, and if we went to arbitration about it the decision might be that Mexico had a right to sell land to Japan or any other power if she wished to do so. The United States would be justified in asking, and in my opinion ought to ask, for a clause in the Covenant that no foreign power shall hereafter acquire by conquest, purchase, or in any other way, any possession on the American continents or the islands adjacent thereto. Nor do I believe that the European members of the League would object to such a clause, because they do not want another nation to acquire military posts or naval stations in the neighborhood of their own coasts, canals or coaling stations.

#### THE DOCTRINE SHOULD NOT CREATE A GAME PRESERVE

There is, however, a third interpretation of the Monroe Doctrine, rarely asserted, often repudiated, but nevertheless widely entertained, which stands on a very different footing. It is that,

while foreign powers are forbidden to take territory from American countries, we are at liberty to treat them as our interests may dictate. According to that view Central and South America are a game preserve, from which poachers are excluded, but where the proprietor may hunt as he pleases. Naturally the proprietor is anxious not only to keep away the poachers, but to oppose game laws that would interfere with his own sport. With their professed principles about protecting the integrity and independence of small countries, the nations that have drawn up the Covenant of Paris can hardly consent to a claim of this kind. Nor ought we to demand it. A suspicion that this is the real meaning of the Monroe Doctrine is the spectre that has prevented the great South American states from accepting the doctrine. It has been the chief obstacle to mutual confidence, and cordial relations with them, and the sooner it is definitely rejected the better.

Some Americans, while professing a faith in the right of all peoples to independence and self-government, are really imperialist at heart. They believe in the right and manifest destiny of the United States to expand by overrunning its weaker neighbors. They appeal to a spirit of patriotism that sees no object, holds no ideals, and acknowledges no rights or duties, but the national welfare and aggrandizement. In the name of that principle Germany sinned and fell. The ideas of these American imperialists are less grandiose, but at bottom they differ little from hers. It would be a calamity if we should have helped to overcome Germany only to be conquered by her theories and her errors.

#### CONSTITUTIONAL OBJECTIONS

Finally, an objection is made to the Covenant on the ground that its provisions are contrary to the Constitution of the United States. It is argued that an obligation assumed by treaty to limit military or naval forces and armaments in this country is contrary to the provision of the Constitution which vests in Congress the power to raise and support armies; that the obligation not to go to war without previous arbitration, or perchance to go to war under certain contingencies, is contrary to the provision

vesting in Congress the power to declare war; that the same is true of the obligation to preserve against external aggression the territorial integrity and political independence of the other members of the League, because this may involve war; and that the obligation to prevent commercial intercourse with the people of an offending country is contrary to the provision which confers on Congress the power to regulate commerce with foreign nations. It is contended that a treaty which regulates any of these things impairs the power of Congress to do so and is, therefore, unconstitutional.

### EXISTING TREATIES DO ALL THESE THINGS

Now it so happens that all these things have been regulated by treaties already made, still in existence, and duly ratified by the Senate. Treaties regulating commerce in various ways have been common, and are too numerous to require citation. No doubt they have often been authorized by Congress, but so can this Covenant if it is deemed necessary. With that authorization, and sometimes without it, there has been no question of their constitutionality.

The limitation of armaments by treaty is very old. More than one hundred years ago, in 1817, an agreement was made with England to limit the naval forces of the two countries upon the Great Lakes. It was approved by the Senate, put into effect by proclamation of the President, has been in force ever since, and been faithfully observed to the great satisfaction of everyone concerned. It is fortunate no one discovered that it was unconstitutional, for in our country this means that it is beyond the power of those making it, and hence null and void. But if the treaty was void, England or the United States could at any moment have built a navy on the Lakes without breaking it, for there is no such thing as a breach of a void treaty. It makes no difference whether this was in form a treaty, for it was an international agreement approved by the Senate.

Treaties to guarantee the integrity and independence of another country are of a more recent date. Article 35 of the treaty of

1846 states that "the United States guarantee, positively and efficaciously, to New Granada, by the present stipulation, the perfect neutrality of the before-mentioned isthmus, with the view that the free transit from the one to the other sea may not be interrupted or embarrassed in any future time in which this treaty exists; and in consequence the United States also guarantee, in the same manner, the rights of sovereignty and property which New Granada has and possesses over the said territory."

In like manner the treaty of 1903 with Panama states in its first article: "The United States guarantees and will maintain the independence of the Republic of Panama." Still more recently the treaty with Haiti ratified by the Senate on February 28, 1916, provides in Article XIV that "the United States will lend an efficient aid for the preservation of Haitian Independence." Each of these treaties implied going to war if necessary, and the last says so expressly.

Within the last few years the so-called Bryan treaties have been made which cover the remaining point, that of an agreement not to go to war before arbitration. The treaty with Great Britain, ratified by the Senate on September 25, 1914, is a good example of this series of agreements. In the first article it provides for the reference to an international commission of all disputes of every nature whatsoever the settlement of which is not already provided for and in fact achieved under existing agreements, and adds that the high contracting parties "agree not to declare war or begin hostilities during such investigation and before the report is submitted." During the years from 1914 to 1916 treaties of this kind, duly ratified by the Senate, were made with Bolivia, Brazil, Chile, China, Costa Rica, Denmark, Ecuador, France, Great Britain, Guatemala, Honduras, Italy, Norway, Paraguay, Peru, Portugal, Russia, Spain, Sweden and Uruguay.

#### CONSTITUTIONAL POWERS ARE UNAFFECTED

It is a little late in the day for opponents of the Covenant of Paris to discover that its treaty obligations are unconstitutional, and hence that all the foregoing treaties are null and void. This



is particularly true of those Senators who voted for many of these treaties. The fact is that treaties touching any of these matters are not unconstitutional, because they do not affect the powers vested in Congress by the Constitution. They affect the good faith of the nation, and so long as they remain in force they are the law of the land. But Congress does not thereby lose its power. If it chooses to pass an act violating their provisions the act, though immoral and a breach of faith, is not illegal or void of effect.

#### SEPARATE LEAGUES FOR AMERICA AND EUROPE INSUFFICIENT

Some opponents of the Covenant suggest that the United States should be at the head of a League to preserve order and maintain peace in this hemisphere, and that a European League of Nations should take charge of troubles which arise elsewhere. But that is no solution of the problem of preventing war. It is merely putting things back into the condition that they were in before Germany began this terrific conflict. If we are willing to help remove from mankind the fearful scourge of war, we must play our part in removing it wherever it may exist.

Other opponents suggest that we should not formally join a League, but can take part in a future European war if needed, as we did this time. They say, let the nations over there fight among themselves, and when we are drawn in, we will fight too. In this war we got off very lightly, in comparison with the European belligerents. There are in America only a hundred thousand mothers who have lost their sons, and perhaps twice as many of our best young men wounded, many of them maimed and sufferers for life. There are desolate widows and orphans. Why not let it happen again, with perhaps ten times as many casualties? Oh, yes, why not? Is not this better than trying to prevent war? Besides, some country may be devastated, as Belgium and parts of France were, without our being drawn in; and then we may make money by the trade in munitions and food stuffs. Why not? Is not this better than preventing war?

## THE COVENANT IS IMPERFECT BUT IN PRINCIPLE RIGHT

This Covenant is not perfect, it is a draft published for criticism and will receive plenty of it, and through criticism some improvement also. But even when perfected, it will not be perfect. Nothing human is perfect; still more, it will not satisfy everybody. In the nature of things it is an attempt to harmonize the views of many nations and of many people within each nation. It is a compromise between these views, and compromise is the very life blood of all legislation, where the unsatisfactory, and the evil if you will, must be taken with the good, and for the sake of the greater good. The Covenant is imperfect and poorly drawn, but it is framed on the right lines. The substance of the plan, the principles on which it is founded are correct and should be improved and accepted.

No great advance, no great step forward, has ever been taken by men without hesitation and without opposition. The Constitution of the United States was wrung from the grinding necessity of a reluctant people; but the far-sighted, sanguine, bold statesmen of that day were right in trying a great experiment, and they tried it with success. The America of their descendants has not become timid. The old idealism, the old fire, the old aspiration for something greater and better in the world, the generosity that is willing that others should share the prosperity and peace that we enjoy, has not died out.

## THE DECISION WE MUST MAKE

The war has taught us some things which we hardly understood before. One is the cruelty, the suffering, the devastation, the horror of modern war, and the absolute necessity of stopping it if civilization is to be preserved. Another thing the war has taught us,—which we saw but dimly before,—is that we have become a great nation and an inseparable part of the world.

With the closer contact with Europe which the progress of science has brought about through the more rapid transporta-

tion of news, of things and of men, the days of American isolation have passed away forever. The numbers and intelligence of our people and the resources of our land have made us potentially the most powerful people upon earth. We can not change it if we would, nor can we escape what it implies. We can not move the world or our country backward, and it is unwise when we can not help moving to look the other way. The destiny of America is forward, and we must look ahead.

War can, in large measure, be prevented, and certainly such wars as we have just shuddered at can be prevented; but this can be done only by a League, and a League powerful enough for the purpose is possible only if our country plays its part. The hour is rapidly approaching when we must decide whether our country shall take its place, like a great and generous nation, side by side with others as guardians of law, order and justice in the world, or whether it shall turn its face away from a world in agony. When I hear Senator Borah, who doubtless thinks himself a good judge of the political atmosphere, say that if the Saviour should revisit the earth and declare for a League of Nations, he would oppose it, I am reminded of a saying of that Saviour: "Ye can discern the face of the sky; can ye not discern the signs of the times?"

## THE PRESIDING OFFICER

Under the arrangement for the discussion Senator Lodge will have half an hour to close.

## SENATOR LODGE

### IN REBUTTAL

After President Lowell had finished revising and amending the treaty I think almost anyone could have agreed with it. I will try to be plain. I said that I was in favor of a union of nations in any league, alliance or society, or whatever name they choose to call it, that would tend to suppress, and, so far as possible, secure the world against, war.

When I said any league, I supposed it included this one. Perhaps it does not. If this League is to be in such form that it will really promote peace, instead of breeding dissension and quarrels—as I believe it will—if it shall be put in such shape that it will bring no injury or injustice to the United States, of course I will support it, because I said I would support any league which would do those things.

I am not engaged in dealing with titles or with imaginary leagues or leagues that are drawn by those who have no authority to draw them. I am engaged in dealing with the League that has been presented, whether complete or incomplete, to the people of the United States, and we were given to understand that it was that League as it stood.

I hope from my heart it will be amended. I hope we shall have a League in proper form, properly prepared, free from doubts, excluding what ought to be excluded. I hope it will be done—done somewhere before the end is reached. In my belief it will be done somewhere, and not in Paris.

### PRESIDENT DID NOT CONSULT SENATE

President Lowell asked me why I did not draw up amendments that I thought necessary and send them to Paris. I happen to be a Senator of the United States, but I can not speak with the au-

thority of the Senate. The Senate under the Constitution has the right to advise and consent. If the President of the United States had done what other Presidents have done—if he had laid this draft before the Senate he would have received the amendments asked of me by President Lowell. I am only asking something that has been done by almost all our Presidents who have consulted the Senate about entering into negotiations, about the character of negotiations, about awards, about pending negotiations. It was done among other Presidents, by Andrew Jackson, the old Indian fighter, victor of New Orleans, arbitrary and imperious; it was done by General Grant, the victor of the great Civil War, who rendered the greatest service to peace that any one President was ever privileged to do, when he carried through the Geneva Convention and saved a war with England. The Senate was consulted prior to negotiations by George Washington; it was consulted prior to negotiations by Abraham Lincoln. And in the path that George Washington and Abraham Lincoln have walked there is no man too great to tread.

#### IF PRESIDENT HAD CONSULTED SENATE

If the President had laid that draft before the Senate, as these other Presidents have done, if he had said to the Senate, "I submit this draft to you for your advice, I hope for your approval, and for such suggestions as you may have to make," he would have had the amendments laid before him to present to the Peace Conference in Paris. The battle would have been more than half won by the mere submission.

He not only did not lay it before us, before the constitutional body which is entitled to advise him, but he does not call the Senate together now to consider it. If they want to know in Paris what amendments are required, call together the constitutional advisers of the President and the amendments will be drafted and sent. But one senator cannot speak with authority for the entire body. The senators are now scattered in 48 states. Call them together and the amendments will be presented,

and if they are adopted the treaty will be ratified in very short order.

### OUGHT TO MAKE PEACE WITH GERMANY

Now, one word on that particular point, which would have saved time. We ought to have made peace with Germany at once. All this fervor for peace, and we are at war now! We are at war at this moment, and nobody seems to think it worth while to stop the existing war. Two months have been wasted, at least two months, owing to the insistence on discussing the League of Peace. It will be two months more at least before the treaty can be here. We ought to have made the treaty of peace with Germany at once. We ought to make the treaty of peace with Germany now.

The argument has been made that unless the League of Nations was attached to the peace with Germany, it would not pass. What a confession of weakness! I believe that the great movement for the world's peace is strong enough to go alone. I believe that it will absolutely stand alone. But when it is saddled on a peace with Germany, interwoven with it, as we have been threatened, is it possible that that great experiment, so eloquently described by President Lowell, is so weak in the popular mind, so weak in Europe, that it must be smuggled in or carried through as a rider on the German treaty? I do not believe it.

Give us the treaty of peace with Germany. Let us chain and fetter, impose the reparations, build up the barrier states, put the monster where it can not spring again, and bring our soldiers home. They have been in Europe fighting the battles of the world—God bless them!—fighting for other nations, fighting for civilization and freedom. No furloughs are theirs. They can not run home in a night, to England or France or Belgium. They have to stay there, the men who have exposed themselves to the fire, who have made the greatest sacrifices, who have done the fighting. They can not come home on a furlough. Some must remain, no doubt, to carry out the terms of peace, but the great mass of



those men can be brought home. And if you tie up the League of Nations with a German peace you make more delays.

### BELIEVES IN LEAGUE OF PEACE

I believe sufficiently in a League of Peace to secure the future peace of the world. I believe sufficiently in it to think that it will be built up and passed, no matter when it is offered. But I know that it will take time and demand discussion.

You have listened to President Lowell's amendments, to his criticisms of the drafting of the treaty. Surely the Senate might be admitted to the same opportunity. The power to advise has been taken from the Senate. It is now proposed to take from it the power of consent by forcing through one treaty as part of another with which it is not concerned.

I am not speaking about senators. Senators, like Presidents, come and go, but the Senate remains an organic part of the Government. And let me say to you that when the powers, the constitutional functions of one of the great branches of the Government are atrophied, evaded, denied, you have got something to do at home to preserve the Constitution under which you have grown great.

I repeat again, I want a League of Nations that will advance the cause of peace on earth, that will make war as nearly impossible as it can be made. I want to bring about a general disarmament. I know arbitration can do much. I do not wish to put into any league articles which I believe impossible of fulfillment and which I believe nations will readily abrogate. But I am so firm a believer in the strength of the great peace movement that I am not ready to back it by the argument of fear. The United States has not come to where she is through fear. We have known

That in ourselves our safety must be sought;  
That by our own right hands it must be wrought;  
That we must stand unpropped or be laid low.

We are a great moral asset of Christian civilization. We are all that President Lowell has described as a necessity of the

League. How did we get there? By our own efforts. Nobody led us, nobody guided us, nobody controlled us.

### AMERICAN PEOPLE ANXIOUS TO DO RIGHT

We have just been told that we are not fit to be intrusted with any care of the South American difficulties if such arise, and therefore we must intrust it to some other power. I object to that. I believe the people of the United States are just as humane, just as anxious to do right to others, as any nation in the world. We have cared for three of those states, as I have already stated—San Domingo, Haiti and Nicaragua. In every instance war has been stopped and civilization and peace have progressed.

Of course we can guarantee them. I did not know anybody ever said we could not guarantee the boundaries of another state. We have done it here under the Monroe doctrine, and done it well. The Monroe doctrine was the necessary corollary of Washington's policy. I believe in it because I believe it protects and defends and guards the United States as it has for a hundred years. It does not interfere with Europe, it does not prevent our going to the aid of Europe, but it does preserve peace throughout this hemisphere. There is a longer record of peace here than you can find in some other places. And we are going to hand it over to a majority of other nations—a body where we have one vote. I do not say the time has not come to do it, but I do say, Think well about it. Consider it carefully.

May I venture a parable? A man is called on an errand of mercy. He springs to his feet and rushes out into the darkness. He does not know the way. He has no light. He falls into a trench, breaks his leg, and the errand of mercy remains unperformed.

Another man starts on the same errand of mercy. He knows the road. He knows where he is traveling. He carries a light. He performs the errand of mercy.

## UNDERSTAND ROAD TO BE TRAVELED

I wish to have the American people understand the road they are traveling. I want them to have light, plenty of light—broad daylight; not go through a dark tunnel of umbrageous words with nothing to see except at the end, the dim red light of internationalism.

Let us be careful where we tread. You are asked to exchange the government of Abraham Lincoln, "of the people, for the people, by the people," for a government of, for and by other people. Be sure that the exchange is for the better and not for the worse. When we abandon, if we must abandon—and if the American people think we must abandon we shall abandon the teachings of Washington and Lincoln, let us be sure, as we enter on the road of internationalism, that we do not go too far toward the sinister figures at the other end, of Trotzky and Lenine.

Let us do all in the world we can to secure the peace of the world, but let us in this most momentous time move slowly and take due consideration of our steps. I admit, I confess frankly, that perhaps I speak with some prejudice, but there is one thing of which I have said nothing, of which I must say one single word before I close.

## CAN NOT FORGET AMERICA

I can not forget America. I want my country to go forth; I want her to be a help to humanity, as she has been. I have nothing but the kindest feelings for every race on the face of the earth. I hope peace will reign throughout the world. I wish my country to do everything she can to bring about that blessed consummation. She has never proved wanting yet. She threw her sword into the wavering scales and turned the balance in favor of freedom and civilization against autocracy and barbarism.

I can not but keep her interests in my mind. I do not wish the Republic to take any detriment. I do not want dangers heaped upon us that would only cripple us in the good work we seek to do. I would keep America as she has been—not isolated,

not prevent her from joining other nations for these great purposes—but I wish her to be master of her fate. I am an American—born here, lived here, shall die here. I have never had but one flag, never loved but one flag. I am too old to try to love another, an international flag. I have never had but one allegiance, the allegiance of the United States. Personally, I am too old to divide it now. My first allegiance must stay where it has always been, to the people of the United States, my own people.

### AMERICA STRONG, TRIUMPHANT AND FREE

I have no doubt that this great country, which has no alliances, which seeks no territory, which desires nothing so much as to keep the peace and save the world from all the horrors it has been enduring—I would have her left in a position to do that work and not submit her to a vote of other nations, with no resource except to break a treaty which she wishes to maintain.

We must not only strive to keep the world at peace, we must try to keep America as she is—I do not mean outside a League, but keep her as she is in her ideals and in her principles.

Therefore, study this question. Think of it. Think of it. Remember that the Senate at least will ultimately carry out the wishes of the American people. They must look at it themselves, they want the people to look at it, and when that is done I have no fear of the verdict.

The verdict of the people, while it will be in favor of doing everything that this mighty nation can for the preservation of the world's peace, will not allow the United States to be put into a position where she will be in any degree injured, weakened or crippled. I wish to see her stand as she always has stood, for the right, for mercy, for the help and benefit of all men, for the oppressed and those who struggle for freedom, all alike. Let her go on in her beneficent career, and I would have her stand as she has always stood, strong, alive, triumphant, free.

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## THE COVENANTER

Letters on the Covenant  
of the League of Nations

BY

WILLIAM HOWARD TAFT  
GEORGE W. WICKERSHAM  
A. LAWRENCE LOWELL  
HENRY W. TAFT

Published Bimonthly by the  
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The corporation is constituted for the purpose of educating the people of all nations to a full knowledge of the waste and destructiveness of war, its evil effects on present social conditions and on the well-being of future generations, and to promote international justice and the brotherhood of man; and, generally, by every practical means to promote peace and good will among all mankind.—*By-laws of the Corporation.*

It is to this patient and thorough work of education, through the school, the college, the church, the press, the pamphlet and the book, that the World Peace Foundation addresses itself.—Edwin Ginn.

The idea of force cannot at once be eradicated. It is useless to believe that the nations can be persuaded to disband their present armies and dismantle their present navies, trusting in each other or in the Hague Tribunal to settle any possible differences between them, unless, first, some substitute for the existing forces is provided and demonstrated by experience to be adequate to protect the rights, dignity and territory of the respective nations. My own belief is that the idea which underlies the movement for the Hague Court can be developed so that the nations can be persuaded each to contribute a small percentage of their military forces at sea and on land to form an *International Guard or Police Force*.—Edwin Ginn.

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# CONTENTS

## Letter

1.	Object to be attained [A. LAWRENCE LOWELL] . . .	99
2.	Nature of the League [A. LAWRENCE LOWELL] . . .	101
3.	Organs of the League [A. LAWRENCE LOWELL] . . .	104
4.	Sovereignty [HENRY W. TAFT] . . . . .	106
5.	Sovereignty ( <i>continued</i> ) [HENRY W. TAFT] . . . . .	108
6.	Constitutionality [HENRY W. TAFT] . . . . .	111
7.	Members of the League: Articles I and II [A. LAW- RENCE LOWELL] . . . . .	114
8.	The Assembly: Article III [A. LAWRENCE LOWELL] .	116
9.	The Council: Article V [A. LAWRENCE LOWELL] . .	118
10.	Voting rules: Articles V, VI and VII [A. LAWRENCE LOWELL] . . . . .	121
11.	Reduction of armaments: Article VIII [WILLIAM H. TAFT] . . . . .	123
12.	Reciprocal concessions: Article VIII ( <i>continued</i> ) [WIL- LIAM H. TAFT] . . . . .	125
13.	The principle we fought for: Article X [WILLIAM H. TAFT] . . . . .	127
14.	Chances of war remote: Article X ( <i>continued</i> ) [WIL- LIAM H. TAFT] . . . . .	130
15.	The basic principle: XI, XII and XIII [A. LAWRENCE LOWELL] . . . . .	133
16.	Court of International Justice: Articles XIV and XV [A. LAWRENCE LOWELL] . . . . .	135

17.	Sanctions behind obligations: Article XVI [A. LAWRENCE LOWELL]	138
18.	Nations outside League: Articles XVIII-XX [A. LAWRENCE LOWELL]	140
19.	Arbitration [GEORGE W. WICKERSHAM]	143
20.	Historical background [GEORGE W. WICKERSHAM]	146
21.	The Monroe Doctrine [HENRY W. TAFT]	149
22.	The Monroe Doctrine ( <i>continued</i> ) [HENRY W. TAFT]	152
23.	Articles XXII-XXV [A. LAWRENCE LOWELL]	154
24.	The colonial mandates [GEORGE W. WICKERSHAM]	157
25.	Labor [GEORGE W. WICKERSHAM]	160
26.	Labor ( <i>continued</i> ) [GEORGE W. WICKERSHAM]	162
27.	Conclusion [A. LAWRENCE LOWELL]	164

# THE COVENANTER

LETTERS ON THE COVENANT OF THE LEAGUE OF NATIONS BY  
WILLIAM HOWARD TAFT, GEORGE W. WICKERSHAM,  
A. LAWRENCE LOWELL AND  
HENRY W. TAFT.

*No. 1*

## OBJECT TO BE ATTAINED

Before taking up the several articles of the League of Nations Covenant in detail, some remarks must be made upon the general principles involved.

The first thing to be determined, and kept in mind, both by the framers of any document, and by those who study it, is the object to be attained. Now the primary object of any League of Nations is the maintenance of peace in the world; for although it may well aim at other benefits, such as the suppression of abuses, the relief of suffering, the improvement of social conditions and of agencies for international co-operation, yet the experience of the struggle just closed has shown the predominant importance of preventing wars which, if unrestrained, threaten our civilization with destruction. Other benefits aimed at by the League may be tentative, may be attempted at first on a small scale and developed gradually as opportunity is offered; but the prevention of war must be effective from the outset. This is the more difficult, however, because in trying any novel social experiment it is wise to disturb the existing traditions and habits as little as we can, in order to raise the fewest objections to its acceptance and to reduce the friction with customary practice to a minimum. In a League of Nations this means interfering with national autonomy as little as may be, consistently with attaining fully the end in view.

Assuming that the primary object of a League is to prevent war, it is clear that some other method of settling disputes must

be substituted for a resort to arms. So far as possible justice must take the place of force. In a highly civilized community the rights and duties of the citizens are regulated by laws which can be readily applied by judicial tribunals; but on account of the imperfect state of international law that is much less the case in the relations between independent nations. Still their relations are to no small extent dependent upon principles capable of accurate determination. This is true of rights under treaties, which can be construed judicially like other contracts. It is true of a considerable body of international law which is in theory, at least, universally recognized as morally binding, and can be the subject of judicial treatment. It is true also whenever a case depends upon a question of fact capable of decision by an examination of the evidence. Such matters have been termed justiciable. But it is not questions of this kind that commonly provoke a resort to arms. Wars arise mainly from divergencies of national interests and policy which may often be reconciled, adjusted, compromised or suppressed by a process of mediation or arbitration, but not by judicial decision on strictly legal grounds. These dissensions, being political in their nature, must be dealt with on grounds of international fair dealing and expediency, and appropriate bodies for the purpose must be provided.

Having created some process of deciding justiciable questions and of adjusting political ones, nations involved in a dispute must resort to those methods of settling it or they are fruitless. When both countries prefer arbitration to war there is no difficulty, but when one of them prefers to fight, and thinks itself sure of victory, it may not want to submit to arbitration and must be compelled to do so. An agreement to submit may be treated as a scrap of paper if no penalty is attached. Arbitration must be compulsory under a penalty which no nation will venture to face. The object is not punishment for the offense of going to war, or redress for the injury suffered, but a deterrent that shall be absolute. The aim is not retribution but prevention. Therefore, the greater and the more certain the penalty the stronger its deterrent effect and the less the probability of its use. If it is great and certain enough it will never be used.

Finally, the prevention of war must be accomplished not only by the settlement of disputes after they have arisen, but also by foreseeing causes of trouble and removing them before they have

reached an acute stage. Hence there must be methods of frequent consultation among the members of the League, for the interchange of points of view, for agreement on common policies, and not least of all for the expansion, precision and codification of the rules of international law which are now far too uncertain and incomplete.

No serious person believes that it is possible in the present state of the world to prevent wars altogether, and even after arbitration there may be a possibility of strife. But by a League of Nations wars can be vastly reduced, and the few that occur can be strictly limited in extent, thus saving untold suffering, and removing in great measure this scourge from mankind.

### *No. 2*

## NATURE OF THE LEAGUE

There are two possible forms in which a League to maintain peace may be organized. These may be termed the delegated and the automatic forms. The first of these is like a federation of states, where certain powers are delegated to a central authority, whose action, within those limits, is binding on the several states. In a League constructed in such a manner a central organ would have power to issue directions which the members of the League agree to obey. The automatic form is more simple, more primitive, but not ill-adapted to sovereign states whose duties to the League are so few that they can be specifically enumerated in a covenant. It consists in prescribing definitely the obligations which the members assume, or will assume on the happening of a certain event, and giving no authority to any central organ to exercise its discretion in giving orders binding upon them. Suppose, for example, that a nation declares war on any member of the League; under the delegated form the representative body would meet, discuss the situation, determine the action to be taken by the members of the League and issue its directions accordingly; while under the automatic form all the members of the League would be under an obligation to perform the acts prescribed in the agreement without regard to any action by a representative body of the League.



The distinctions between the delegated and automatic forms of League seems for many people very hard to grasp. They often speak as if the latter involved merely vague promises which the members were under no real obligation to fulfill; and therefore they regard that form of League as an inferior guaranty to the other. But in fact precisely the opposite is true. This can be made clear by an illustration from business life. A bank, when offered a note indorsed by honest and responsible men does not hesitate to discount it, because the obligation of the indorsers is fixed, their liability to pay is automatic, arising at once on the failure of the maker to pay the note; and the indorsers, if honest men, pay without regard to compulsion by suit at law. If, on the other hand, the bank were offered the note with a conditional guaranty by the same men that, in case the note were not paid at maturity, a committee of their number should meet and decide what should be done, and that if the committee so directed they would pay the note, the bank would regard such a guaranty as no security worth having. In the same way a joint and several agreement by the members of a League of Nations to coerce a state that made war on any of them would be a better and more forcible guaranty than an agreement to do so if ordered by a representative body created by them.

It is no doubt true that such an obligation to coerce the offending country is, like every other obligation of a sovereign state, a moral one; but so is an obligation to comply with the directions of the representative body. Yet it is also true that honorable nations can be relied upon to fulfill their treaties, even when at the moment they are burdensome, as has been shown in this war. Free nations can usually be trusted to do what they have freely undertaken, and in international relations it is always assumed that they can be trusted.

The automatic form of League has, therefore, the advantage that it provides a more effective guaranty of peace. In face of such a compact, which would have brought her into certain collision with all the members of a powerful League, Germany would not have ventured to precipitate this war; whereas the delegated form of League might not have deterred her. Deliberation is often a slow process, and Germany might well have thought that before a result had been reached she would have beaten France; for she believed that this would take only a few months.

Moreover, she might hope that one member of the League, being unprepared, would urge delay, while another, more remote, would argue against a general war, and at last no concerted action would be taken against her.

Another advantage of the automatic form is that the obligations of the members are specifically stated by themselves in the Covenant, so that they know precisely what duties they assume under any conditions that may arise; while the delegated form leaves their obligations uncertain, to be determined at some future time by a representative body which may go farther or less far than some of the members desire. Vigorous objection has been made in the United States to a super-sovereign League that would have authority to order this country what to do in case of an attack against another member of the League. The objection is not without cogency; but it does not apply to the Covenant of Paris, either in its original or its amended form, for that Covenant has adopted as its basic principle the automatic type of League, fixing the obligations of the members and the sanctions for violation in the pact itself, instead of leaving them to be determined by a representative body. The Council of the League is, indeed, at liberty, and even enjoined, to advise or recommend further action by the members, but no member assumes any obligation to follow the advice unless it chooses so to do. The language is in that respect perfectly clear and consistent, unless we are to construe such words as "advise," "propose," and "recommend" in a sense quite contrary to their ordinary meaning. How completely this is true will be clearly seen when we examine in detail the articles of the Covenant.

## ORGANS OF THE LEAGUE

Even the simplest form of League requires three classes of organs, judicial, deliberative and secretarial. The first and last of these will be more conveniently discussed in connection with the articles of the Covenant. In this letter we are concerned with the deliberative organs.

The functions of a League of Nations include, not only the settlement of disputes after they have arisen, but also removing causes of dissension and discontent. For this purpose representative bodies are required. It is not essential that they should have any binding authority, and in fact in the automatic form of League they certainly would not; but consultative functions they must have and these are of the utmost importance. International congresses have often settled questions that might otherwise have led to war; but hitherto they have been held only by universal consent, and in 1914 Germany was unwilling that such a congress should meet. To prevent war there must be both compulsory arbitration of disputes and regular meetings of representative bodies for consultation.

Of such bodies in a League comprising many nations there ought to be two, one large and the other small. The reason is the same as for having in a free nation a large legislature and a small executive. The large legislature gives an opportunity for the representation of many points of view, of many different interests; and in a League the larger body makes possible the representation of every member nation however small. But a large body cannot act quickly, and it is moreover not well fitted for reaching by compromise and concession the unanimous opinion on concrete questions often essential to harmony and success. In a small body, however, all the members of a numerous League cannot have seats. Some states must be left out, and it is clear that the presence of the large nations is the most important, because on them the responsibility must mainly fall in peace and war, and because their mutual confidence is the strongest guaranty of enduring co-operation. There is also good sense in their presence from the fact that the large nations touch the world at many points, the smaller ones at less. Thus England, France and the

United States have a broader outlook than Rumania or Bolivia which see a comparatively narrow part of the interests of mankind, and have a more local vision. At the same time the lesser states ought not to be wholly left out of the smaller body. Their point of view, and the fact of their presence, are indispensable. The Covenant of Paris has sought to meet this difficulty by an ingenious compromise.

The Covenant wisely leaves the method of appointing the representatives to the states themselves; but as there has been some difference of opinion on that point among the advocates of a League in this country it may not be out of place to discuss it briefly. The Council of the League is intrusted with the function of recommending to the members sundry things in addition to those which by the Covenant they specifically undertake to do. Sometimes it may recommend positive action, and therefore it is important that the representatives should, so far as possible, be in a position to speak for their respective Governments. If one of the Balkan states, for example, should pursue, or allow its citizens to pursue, a course of conduct which while not amounting to a hostile act, is highly and properly offensive to a neighbor and likely to lead to a breach of the public peace, the question would arise what representations, if any, should be made to that state by the members of the League acting in concert. Since the Council has no power of its own, and any action must be that of the several members of the League, it is clear that a discussion by people who could not speak with authority for their nations would not attain the end desired. In such a case the Council must be in fact a meeting of the ambassadors of members of the League, not a debating society for the expression of every variety of divergent opinion. This is, indeed, one of the chief reasons for including in the Council the representatives of the powerful nations whose opinions cannot fail to carry weight with states that are fomenting trouble.

Moreover, the function of the Council being merely to make recommendations, these are far more likely to be accepted by a nation if prepared by the official representatives of its own Government, than if by spokesmen of a minority, or by any other men who do not act under the directions of the political authority of the nation; and that must continue to be the case so long as the League is an alliance of independent states seeking to promote

harmony of action, not a common government for the peoples of those states. Mr. Root is clearly right that it would be wise to have the American members of the Council appointed and confirmed like ambassadors, since that is in effect the position they are to hold.

This applies much less to the Assembly, which, with its very restricted functions, is intended to be a body for discussion, and will serve its most useful purpose in ventilating the opinions of all mankind. Here again, however, it would be better not to have any rigid system of minority representation such as has been suggested, but to leave the matter to be determined in each case according to the class of questions likely to arise. If, as we hope, the Assembly should undertake a revision of international law, it would be highly expedient to select jurists learned in that subject without much regard to party; and the same thing is true of other matters requiring technical knowledge of economic or social questions.

In these opening letters *THE COVENANTER* has tried to set forth the general principles on which any League of Nations must be based. After considering certain questions particularly affecting the relation of the United States to a League, it will be of interest to examine in what way, and to what extent, these general principles are applied in the Covenant of Paris.

#### *No. 4*

### SOVEREIGNTY

Every civilized nation must, in the interest of its citizens, make treaties, and, like ordinary trades between individuals, these must be negotiated on the principle of "give and take." Whatever it agrees to do or to refrain from doing imposes a restriction which detracts from its complete sovereignty. But it does not thereby unduly surrender its independence, unless the restriction makes its ordinary governmental functions subject to control by another country, as was the case, for instance, with Cuba, when she accepted the terms of the Platt Amendment, and thereby subjected her national financial policy and her foreign relations to the supervisory control of the United States. A nation's independence is



not unduly impaired by a treaty by which it receives advantages which compensate it for what it concedes.

It is too late to argue in this country that international agreements to make or to refrain from making war, to guarantee protection to the territory of other nations and to limit armament, unduly impair a nation's sovereignty; for numerous instances of such agreements in existing treaties will be found in our diplomatic history. Nor can it be said that such agreements were not contemplated when our Constitution was adopted, for the Supreme Court has held that under the treaty-making power, the President and the Senate may make any agreement they regard as appropriate, provided it does not result in "a change in the character of the Government or in that of any of the states or a cession of any portion of the territory of the latter, without its consent."

Article X of the Covenant is criticised as involving an impairment of sovereignty. By that article there is created a defensive alliance of the nations of the League to prevent external aggression threatening the territorial integrity or the political independence of any member nation. The alliance is designed primarily to give protection to the seven new republics in Europe and the four autonomous nations in the near East, created as a result of the war; and the obligation to join in such an alliance was thrown upon us because, by the Fourteen Points on which the armistice was expressly based, we made ourselves responsible not only for the erection of the new states but also for their protection against attacks from without, threatening their status as it was to be established by the Treaty of Peace. For this we are to receive the further advantage of the continuous co-operation of the League in preserving the peace of the world.

Furthermore, the obligation imposed by Article X will probably be less burdensome than opponents of the League have assumed, for if it were sought to have the Council advise that the United States should intervene in what we regarded as an unsuitable case, we could veto the suggestion by our single vote. But it is altogether improbable that that would be necessary; for in any concrete case it would naturally happen that the burden of performing the guaranty would, in the first instance, fall on the nation nearest at hand or politically most concerned. The chance that we should often, if ever, be called upon to send troops or warships to Europe or Asia to repel local aggressions would be



remote, since in practice they would have to be dealt with summarily by the nations more directly affected, precisely as, under the reservation of the Monroe Doctrine in Article XXI, we would be expected to deal with aggressions upon countries of the Western Hemisphere.

In considering whether we are unduly hampered by Article X "the real question," in the words of Sir Frederick Pollock, an eminent authority on the subject, "is whether the security for the common peace to be gained by the establishment of a common power is worth its price." When we became implicated in the European situation, we committed ourselves to the proposition that the price paid by our becoming a party to the guaranty of Article X was not out of proportion to the security we expected to enjoy in the future. It was in the interest of the people of this country that the United States should become a decisive factor in the world's affairs. We cannot, with national honor, now escape a responsibility corresponding to our contribution to the winning of the war. That is imposed upon us by the dictates of international morality, and no nation can be said unduly to surrender its sovereignty by discharging such an obligation.

### No. 5

## SOVEREIGNTY (*continued*)

The chief purpose of the League is to preserve international peace. It is sought to accomplish this through the reduction of armament (Art. VIII), the suspension of war during the process of the settlement of disputes by arbitration or through mediation (Arts. XII, XIII and XV), and an economic boycott for a violation of the Covenant (Art. XVI). In view of America's past efforts to avoid war by procuring the settlement of disputes by arbitration, even though they involve vital interests or national honor, it seems unnecessary to argue that such a comprehensive scheme for preserving the peace of the world as that worked out in the Covenant does not involve an undue surrender of sovereignty. Furthermore, all of the obligations assumed for the beneficent purpose of the League have their counterpart in covenants contained in earlier treaties:

In 1817, by the Rush-Bagot treaty, this country and Great Britain agreed to limit their naval armament upon the lakes forming the boundary between this country and Canada.

By the Webster-Ashburton treaty, Great Britain and this country agreed in 1842 that they would maintain a naval force on the coast of Africa for the suppression of the slave trade.

By the Clayton-Bulwer treaty of 1850, between Great Britain and the United States, the two countries guaranteed the neutrality of any ship canal that might be built between the Atlantic and Pacific, and agreed, among other things, that neither nation would ever "obtain or maintain for itself any exclusive control over the said ship canal," or "erect or maintain any fortifications commanding the same or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise, any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America," or "take advantage of any intimacy or use any alliance, connection or influence that either may possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other." The treaty also provided that vessels of the two high contracting parties should be exempt in case of war between them, from blockade, detention or capture.

In 1846, by Article 35 of a treaty with Colombia, the United States guaranteed "positively and efficaciously . . . the perfect neutrality" of the Isthmus of Panama. In 1901, the Panama Canal treaty was made with Great Britain, by which it was provided that the canal could never be blockaded, and that no act of hostility could be committed within it.

In 1903, this country by treaty guaranteed and agreed to maintain the independence of the Republic of Panama.

By a treaty with Honduras in 1864, the United States guaranteed the neutrality of the Honduras Railroad.

In 1889, by treaty with Germany and Great Britain, the signatory powers recognized the neutrality of the Samoan Islands and provided that the three powers should have equal rights within the islands.

By the so-called Bryan treaties "for the advancement of peace" made by the United States with Guatemala, Norway, Portugal, Great Britain, Costa Rica, Spain, Sweden, Denmark, France, Uruguay, Peru, Paraguay, Italy, Russia, China, Chile, Ecuador, Honduras, Brazil and Bolivia, we have, in practically identical language, agreed that disputes arising between this country and the other countries named shall be submitted for investigation and report to an international commission, and that while such investigation is proceeding we will not resort to war for the satisfaction of our rights. Even questions of national honor and vital interest are not excluded. The commission is to be so selected that in most cases a majority of the commission will come from nations other than those who are parties to the dispute. Finally, by the "favored-nation" clauses of our commercial treaties, we have acted on a principle not very different from that underlying the economic boycott provided for in Article XVI.

Thus, under the treaty-making power we have made covenants for the reduction of armament, the maintenance of armed forces in foreign territory, the fixing of boundaries, the maintenance of neutrality of territory belonging to other nations, the guaranty of the independence of other nations, the compulsory arbitration of disputed matters, with the postponement of war during that process, the participation by this country with other countries in the affairs and government of backward nations, a restriction upon the right to erect fortifications for the protection of property in which this country is interested and with reference to which it assumes a responsibility, and an appropriation of money in order to make all such covenants effective. Excepting that it deals in a single treaty with a greater number of nations and a greater variety of subjects, the Covenant of the League does not require an invasion of the sovereignty of the United States to a greater extent than that involved in such covenants as these.

Provisions conferring powers upon the Council have been pointed to as an excessive delegation of sovereignty. But the power delegated is no greater than that conferred by the Bryan treaties upon arbitrators, a majority of whom may be foreigners, and it is far less than that by which the members of the Postal Union renounced their important governmental prerogative of fixing rates of foreign postage. The Council was necessary for purposes of administration, but it has no power to commit the League. It

can only make recommendations and even such advisory action can be prevented by the veto of a single member of the Council.

Finally, the real question is whether the restriction upon sovereignty is justified by the expected result for which it is imposed. No loftier purpose can be sought for by any nation than the maintenance of peaceful relations with other nations, and nothing will so clearly justify for its accomplishment an appropriate surrender of sovereignty. If Articles X, XII, XIII, XV and XVI are effective to that end, it may with truth be said, as Sir Frederick Pollock said of the Bryan treaties, that if they result in undue detraction from our national independence, then such "independence is a kind of legal fiction hardly worth preserving, like the absolute and individual sovereignty of certain publicists, which, unfortunately for their doctrine, it is impossible to find in the Government of the United States, or in any federal constitution."

### *No. 6*

## CONSTITUTIONALITY

The Covenant of the League of Nations is a treaty, and the validity of its provisions must, therefore, depend upon the Federal Constitution which confers on the President the "power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." As by the same instrument treaties are made "the supreme law of the land," the President and the Senate in making a treaty enact, or at least initiate, what is in the nature of legislation, and they are made the agents of the people for that purpose. But a certain school of publicists have asserted that a treaty dealing with matters requiring supplementary action by Congress, as, for instance, a declaration of war, should expressly provide that it is made subject to action by the House of Representatives, or at least that the House should be consulted before a treaty is agreed to. For a century, however, the President and the Senate, without consulting the House, have been negotiating treaties; and the Supreme Court, whenever the question has arisen, has held that while they could not agree to do what is forbidden by the Constitution, or to make a change in the Government of the United States or of one



of the states, or to cede the territory of one of the states without its consent, there is not "any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country."

Most treaties which have been made by the United States would have remained empty pacts without action by Congress. In connection with the present discussion it is pertinent to note that by some of such treaties we have guaranteed the territorial integrity or the political independence of some foreign nation, and have thus committed the nation to war, if necessary, for the enforcement of the guaranty; while by others we have agreed to reduce armament on the Great Lakes, to maintain a naval force on the coast of Africa or to refrain from war during the arbitration of international disputes; and we have frequently made treaties requiring the appropriation of money or some economic legislation by Congress in order to give them effect. But the President and the Senate have never waited in making such treaties for action by Congress; nor, on the other hand, has that branch of the Government ever failed to enact necessary legislation.

There would be no constitutional way of compelling Congress to take action, although a legal discretion to refuse to act is virtually a power to abrogate a treaty. Hamilton sums up the matter thus:

"The House of Representatives have no moral power to refuse the execution of a treaty which is not contrary to the Constitution because it pledges the public faith . . ." And Washington, in a case where the question arose sharply, said that "every House of Representatives has therefore acquiesced and until the present time not a doubt or suspicion has appeared to my knowledge that this construction was not the true one; nay, they have more than acquiesced, for till now, without controverting the obligation of such treaties, they have made all the requisite provisions for carrying them into effect."

Suggestions have been made that treaties of such importance as the League of Nations should not be entered into by the President without ascertaining the will of the nation and of the representatives of the people elected to the House of Representatives. But we are a nation governed by a Constitution and there is no way under that instrument for submitting a treaty directly to the people or to Congress for their approval; and if governmental

agencies vested with treaty-making powers should attempt to do so, they would be evading the duty clearly imposed upon them by the Constitution.

Furthermore, it would not be possible to ascertain how some future Congress would act. If the sentiments of one Congress could be ascertained, that would be no assurance that the next Congress would be of the same mind. One Congress might be willing to enforce an economic boycott under Article XVI or to take military measures for the performance of the guaranty of Article X, while another would not assent to such action. Congressional action would, of course, be taken under the circumstances existing when a concrete situation had arisen; and in the vast majority of cases it would be impossible to forecast those circumstances. It would, therefore, be a futile expedient to procure assurances from the Congress that happened for the moment to be in power.

It is quite true that, as the President and Senate always take the initiative in making treaties, Congress in enacting supplementary legislation to give a treaty effect, acts under a sort of coercion due to the fact that duly constituted governmental agencies have committed the nation to a solemn moral obligation. But this situation is inevitable under the distribution of powers under the Constitution, and it no doubt accounts for the historical fact that Congress has never refused to take appropriate legislative action. It was this phase of the matter that led President Washington, when the House of Representatives sought to investigate the instructions under which the minister of the United States negotiated the Jay treaty, to refuse to send to the House the papers which had been before him when the treaty was signed, and to say:

“It is thus that the treaty-making power has been understood by foreign nations, and in all the treaties made with them *we* have declared and *they* have believed that when ratified by the President with the advice and consent of the Senate they became obligatory.”



## MEMBERS OF THE LEAGUE

## ARTICLES I AND II

The original members of the League are those who are admitted without a vote of the Assembly, and therefore without giving guaranties of their sincerity and without regulations in regard to their military and naval forces. These countries are enumerated in the Annex to the Covenant and they are divided into two classes. The first list comprises all the countries, except Russia, that declared war, or were deemed to have taken part in the war, against Germany. They are 32 in number, including as distinct members India and the four largest self-governing colonies of England. The second list contains the names of 13 states, being all those neutrals during the late war which have free and stable governments. The chief nations not in these lists are Germany, with Austria-Hungary, Bulgaria and Turkey, her allies in the war; and Russia, whose political future is as yet wholly uncertain.

Assuming that the countries named in the Annex to the Covenant will, with few and not very important exceptions, join the League, it is interesting to compare the relative populations included within it and those which are at present left out; for on the preponderance of the League may well depend the question whether it will prove an irresistible force for peace and justice in the world, or merely an alliance that may be opposed by a counter alliance on the discredited system of balance of power.

Russia, after the loss of Poland, Finland and the Baltic provinces, has still a hundred millions of people of Slavic race; but at present they are in such a chaotic condition and are so distracted by civil war that their future can not be foreseen. If Russia remains permanently divided parts of it will certainly drift into the League. If it becomes reunited it is more likely to cast in its lot with the League than to ally itself with Germany or remain isolated.

Apart from Russia, and the former Turkish dominions which will be largely absorbed by other states, there will remain outside of the League Germany, a part of Austria-Hungary and Bulgaria. After the losses of territory these have sustained they will have a

population of a little more than one hundred millions, all in Europe. The members of the League, on the other hand, will have in Europe a population of over two hundred millions, and elsewhere a population of European stock of about one hundred and fifty millions. The people of non-European or mixed race in independent countries with stable governments will add, perhaps, a hundred million more, beside India, China and Africa with over seven hundred millions of people. In men and money, in commerce and natural resources, in all that gives ultimate power, the potential force of the League should be supreme, if its members keep faith and abide by their principles of maintaining peace and justice on the earth.

If these figures show the potential force of the League, they show also the need of such a League, the need of a close and honorable co-operation among the members, and not least the need of watchful attention to the developments in central and eastern Europe.

The second article of the Covenant provides that its action shall be effected through the instrumentality of an Assembly and a Council, with a permanent Secretariat. This means that so far as the members of the League act through any common organs these are the ones through which they act. It does not mean that they are not to act directly without the intervention of any organ of the League whatever. To hold such a view would nullify many of the obligations which, if one can use the expression, are personal and direct. For example, in Article X the members bind themselves individually to preserve and protect one another's independence and integrity against external aggression, the Council only giving advice on the best means of doing so. When under Article XIII two members go to arbitration they do it without regard to the Council or Assembly. Under Article XVI the boycott or blockade is to be set in operation immediately by the members, without waiting for action by the Council, which has no discretion to authorize or forbid it. This is true also of the obligation to furnish mutual economic support and allow the passage of troops. Again, the agreements for humane treatment of labor, etc., impose obligations directly upon the members of the League.

How direct these obligations upon the members are, how much depends upon their automatic action, and how restricted is the

authority of the organs of the League will be seen more fully as we proceed to examine the several articles of the Covenant.

To meet criticisms made in America, a clause was added to the first article permitting any member of the League to withdraw after two years' notice. Such a withdrawal ought not, of course, to be permitted in order to avoid obligations already incurred; and it is therefore very properly subject to the proviso that these have all been fulfilled at the time of the withdrawal.

## No. 8

### THE ASSEMBLY

#### ARTICLE III

This is the larger organ of the League, the one in which all the members are represented; by three delegates apiece if they please, so that if all the 45 countries named in the Annex to the Covenant should join the League, and each of them should send its full complement of three, the Assembly would fill 135 seats. Since statesmen and others in all lands have a strong desire to be of service on such occasions it is probable that the delegates present will not be much less than this, a number well fitted for debate, but not for confidential interchange of opinions on delicate matters.

The Assembly will, indeed, probably attract more popular attention than any other organ of the League; and yet its actual functions, which are to be found scattered through various articles of the Covenant, are extremely limited. Besides regulating its own procedure and appointing its committees, it is empowered to select the four smaller states to be represented on the Council; to approve of enlargements of the Council; to confirm the selection of the Secretary General; to report upon disputes between nations referred to it by the Council or by either of the disputants; to advise the reconsideration by members of the League of treaties that have become inapplicable, and the consideration of international conditions endangering the peace of the world; and by a two-thirds vote to admit new members to the League. Except, therefore, for some definite powers relating to the organization and membership of the League, its authority in international affairs is confined to making a report in certain disputes and giving to the members advice on a few subjects.

What then is the meaning of the third clause of the article which provides that "the Assembly may deal at its meetings with any

matter within the sphere of action of the League, or affecting the peace of the world." Clearly this does not mean that it can deal only with the subjects to which its authority extends by the special provisions of the Covenant, for that would reduce its field of discussion to almost nothing. Nor, on the other hand, does it mean that the Assembly can take action binding upon the members in all matters within the sphere of action of the League, because specific provisions are made for dealing with those matters, and the interpretation suggested would render all such provisions futile. The Assembly would have power to overrule them all. Moreover, Article V declares that except where otherwise expressly provided decisions of the Assembly or Council shall require the consent of all the members of the League represented at the meeting. But a unanimous decision of 45 countries can never be attained where there is any serious difference of opinion, and where there is not it is needless. To authorize the Assembly to deal unanimously with any subjects they please would, therefore, be simply conferring a power that cannot be used.

In view of the other specific provisions of the Covenant the intention of the clause is perfectly clear. It means that the Assembly is authorized not to decide, but to discuss, all matters within the sphere of action of the League or that affect the peace of the world. In this it is the successor to the conferences at The Hague. Save for the very limited authority expressly vested in it the function of the Assembly is discussion, and that is of immense importance. The mere fact that any nation, however small, can bring its grievances and its aspirations before a general body of representatives gathered from all the free, orderly and civilized peoples of the earth is of inestimable value. It is a fertile means of creating that enlightened public opinion on international questions which has been heralded as one of the chief objects of a League. International distrust often arises from misunderstanding which can be removed by open conference; and points of contact are points of mutual comprehension.

The greater part of the objections raised to the Covenant appear to be based on a misconception of the Assembly. We are told, for example, that if we accept the Covenant, the United States will be outvoted in a body in which the British Empire has six votes to our one, and in which the majority of members will be delegates from small or backward countries, perhaps even

of Asiatic or African race. Similar objections are not raised against the Pan American Conference, although the United States could be immeasurably outvoted there by countries whose domination we should be unwilling to accept. No such objection is raised in the case of a Pan American Conference because it has no power to do anything but talk. In other words, it is a purely consultative body, with no legislative authority whatever. Yet it is not useless, because it brings the countries in this hemisphere together, gives a chance to air and remove grievances, and produces a more friendly feeling.

The position of the Assembly under the League of Nations is closely analogous to that of a Pan American Conference, for it has power only to debate, and is not given authority to bind the members. Nevertheless, it also is not useless; and as the Pan American Conference was established with a view to promoting harmony between the countries in this hemisphere, so the Assembly is a sort of Pan World Congress to bring about harmony between all the nations of the earth. Under these circumstances, objections based on the number of delegates or their distribution are wholly beside the mark.

Disraeli once said that Parliament was the great inquest of the nation. The Assembly of the League may well become the great inquest of the world; the body where plans for the betterment of mankind are advocated, and where codes of international law are prepared and debated.

It may be observed that, although each member of the League is entitled to send three representatives to the Assembly, the voting is by states. Some people have desired a great parliament of the peoples of the earth, but as yet that is utopian. The organization of the modern world is built upon nationality, and whatever a remote future may bring forth, at present peace and order, justice, progress and liberty must be based upon a concert of free nations.

## No. 9

# THE COUNCIL

## ARTICLE V

The Council is the principal organ of the League; for, while its functions are almost entirely confined to supervision and the



making of recommendations, the sphere in which it can do this is large.

Now the responsibility for carrying out the objects of the League rests mainly upon the five large nations. On their co-operation its effectiveness depends. Without them it would be powerless. They must be kept constantly in close touch with one another, and hence in the small body which meets most frequently and in which the most intimate conference takes place, they must always be present. But although that body possesses no legal authority to direct the action of the members, yet, if it were composed exclusively of the representatives of the five largest nations, those five could, if they agreed together, exert such an influence as practically to rule the League, and in fact the whole world. It is important, therefore, that the smaller states should be represented on the Council, and that the states having seats there should not always be the same. To accomplish this result the Assembly is empowered to select from time to time the states that shall be represented; and since in the Assembly the small states will far outnumber the large ones, and each state has one vote, the states to have seats will practically be selected by the smaller members of the League. In order, moreover, that important action affecting any smaller state may not be taken in its absence it is further provided that in such a case the state shall be specially invited to attend. Thus effectiveness by the presence of the larger states is combined with fair consideration for the smaller ones.

It is noteworthy that in revising the draft of the Covenant the name of the Executive Council was changed to Council, because it is not in fact intrusted with executive power. Apart from matters relating to the organization of the League—such as the appointment of the Secretary General, and of permanent commissions, and the naming, with the approval of the Assembly, of additional members of the Council,—its functions are almost wholly advisory or supervisory. Thus it is to formulate plans for reducing armaments; to give advice on restricting the private manufacture of arms, and on the means of resisting aggression upon the integrity of a member of the League; to propose steps to give effect to an arbitral award; to formulate plans for a permanent court of justice; to endeavor to effect the settlement of disputes between two members of the League; to conduct inquiries in such cases; to publish facts and recommendations if it fails to



reach an effective decision of a dispute; to recommend military contingents in case of an attack upon a member of the League; to make recommendations to prevent hostilities between non-members; and finally to supervise the prohibition of trade in white slaves, opium, etc., and the administration of international bureaus.

The only cases in which the Council has power to take action that has a binding effect of any kind upon the members of the League are three. First, if a plan for a reduction of armaments is voluntarily accepted by the members, no one of them can exceed it during the period for which it has been adopted without the consent of the Council. Second, if in case of an inquiry into a dispute the Council makes a recommendation which is unanimous (except for the parties thereto) no members of the League can attack another member that complies with it. And, third, if a member chooses to accept a mandate over a backward territory it must do so on the terms agreed upon by the members of the League, or fixed by the Council. In two other cases the Council has power to take action that has a binding effect, but not on the members of the League. It can determine conditions on which an outside power may join the League, either for the purpose of settling a particular dispute, or permanently, and in this last case it can regulate the military equipment the new member may possess.

We may observe that only in matters of procedure and appointment, and in publishing facts and recommendations in a dispute where it cannot make a report with any binding effects, can the Council act by majority. In all other cases, even where it only gives advice, its vote must be unanimous. The only exception is that in deciding a dispute the votes of the parties thereto are not counted. The United States might thus be prevented by act of the Council from attacking a member of the League when all the other members of the Council thought we were in the wrong. Save in that case, no action of the Council, even the making of recommendations, can take place unless the United States concurs. The fear, therefore, of a super-sovereign, a loss of our national sovereignty, or of a Council that rules of the world, is the result of inattentive reading of the documents or of an overheated imagination.

*No. 10*

## VOTING, PROCEDURE, SECRETARIAT, IMMUNITIES

## ARTICLES V, VI AND VII

Procedure and the appointment of committees in the Assembly and the Council are to be decided by a majority vote; almost all other matters require unanimity. The function of these bodies being mainly discussion, the requirement of a unanimous vote on questions of procedure would enable one member to prevent any subject from being debated; and if it were required for the appointment of committees one member could prevent gathering the information needed for intelligent discussion.

The object of demanding unanimity for other matters was really to still the alarm of people who did not understand that the organs of the League are given no substantial power to direct the conduct of the members. But the provision is by no means inconsistent with the principle on which the League is based—that of automatic action by the members on matters specifically set forth in the Covenant itself, and beyond this conferences with a view to voluntary concerted action by all the members. For the last purpose a unanimous vote is not inappropriate.

It may be well to explain here more precisely what is meant by automatic action on the part of a member of the League. It denotes action that is automatic so far as the League or its organs are concerned, not in regard to the constitutional branches of its own government. Under Article XVI, for example, if one nation resorts to war against another in disregard of its covenants the other members of the League agree immediately to subject it to the severance of all trade and financial relations, and to prohibit all intercourse between their citizens and its citizens. This is automatic in the sense that it is a direct and immediate obligation, wholly independent of any action by any organ of the League. It is not automatic in the sense that the severance of relations takes place automatically without any action by the Governments of the several members of the League. Nor does it determine what branch of a national government has power to put it into effect. That depends upon the constitution of the nation. With us it would require legislation, and therefore action by Congress;

but Congress is under a moral obligation, like that imposed by every treaty which pledges the good faith of the nation, to enact the legislation required.

The League will obviously need a considerable body of men to carry on a voluminous correspondence among the members, to record the proceedings of the different organs, to collect such information as they may require, and to assist the various committees and standing commissions. In fact the convenience of the representatives, and the ease of working the organization, will be greatly promoted by the efficiency of such a secretariat and its chief. This is especially true because in popular governments—and no others are expected to be members of the League—the men who hold the high offices of state change frequently, and hence the representatives in the Council and Assembly are not likely to remain long enough to be thoroughly familiar with the details of previous transactions, but must depend for much information upon the Secretariat.

In order, therefore, to render efficient service the Secretary General and his subordinates should be permanent, fully conversant with the history and condition of international relations, but not themselves political persons. Their duty is to serve the League, not to direct it; and in view of the large influence that any permanent expert, with the details of all matters at his fingers' ends, can exert over a changing body of political superiors, it is of the utmost importance that the Secretariat should be as free from bias and from political motives as possible. Their object should be the success of the League as an institution, not the special interest of any particular country. If rightly administered the Secretariat may well become one of the most important and beneficial organs of the League.

Article VII needs little comment. It confers upon the delegates to the Council and Assembly, to their commissions, to the secretaries and to the buildings they occupy, the freedom from interference by local laws and local officials conferred by universal custom upon ambassadors and embassies in foreign lands. In order to insure for the League complete independence from influence and pressure by any great nation, and still more from any suspicion of such influence, it was wise to place the seat of the League in a small and traditionally neutral country. No better place could have been selected than Geneva.

*No. 11*

## REDUCTION OF ARMAMENTS

## ARTICLE VIII

By Article VIII the League members expressly declare that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations. Taking account of the geographical situation and circumstances of each state, the Council is to formulate plans for such reduction for the consideration and action of the several Governments. The League members agree to exchange full information as to the scale of their armaments, their military and naval program and their warlike industries. After adoption by the several Governments of the plan of reduction, the limits of armaments therein fixed are not to be exceeded without the concurrence of the Council. The plans are to be reconsidered and revised at least every ten years. The League members agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections, and the Council is to advise how these evils can be prevented.

This is the first of the four great steps toward securing permanent peace in the League constitution and is as important as any. One of the great factors in bringing on this war and in making it what it was, was the race in armaments between the European nations. Prussia under Bismarck perfected its military establishment by winning three wars, first against Denmark, secondly against Austria, and then against France. Thus the German Empire was made in 1871. From that time on, the German armament has been increased and has kept pace with the growth of German desire for world domination. A thorough and drastic system of conscription, military training and reserves built up the German military establishment so that it was a perfect machine and far more formidable than that of any other Government. Fear of it prompted every continental nation not in alliance with Germany to enlarge its armament. Germany's allies, Austria-Hungary and Italy, joined in the race at her instance. Thus these huge war establishments went on increasing from decade to decade. After a time, Germany acquired naval ambition, and then the race began between her and Great Britain.

The inevitable result of all of this with its intent was war, and war came. The evils may be easily summarized.

*First*—Grievous burdens of taxation were imposed upon the peoples of the competing countries. Their producing capacity was seriously impaired by consuming three years of the best producing part of the lives of their young men.

*Second*—Consciousness of the power of such a military establishment produced a truculence and bullying tendency on the part of Germany who kept ahead in the race. The Kaiser flaunted to the world the diplomatic triumphs he achieved by standing forth in his "shining armor." His military machine and his knowledge of the defects of the Russian and French machines led him to improve the occasion of the Austro-Serbian difficulty to seek war before the defects of his rivals could be supplied. Thus the race of armament brought on this war.

*Third*—The growth of these enormous armaments under such conditions has made this war the most destructive in history. Peoples and civilizations have been the objects of attack, not armies merely. The killing of noncombatants, old men, women and children, and the permanent devastation of enemy country have been features of the German campaigns and all because the vast military preparations and the organization of suitable machinery naturally led to this method of winning lasting victory and permanent conquest.

This succession of causes with the result is bound to recur again unless the great powers of the world lead all nations to suppress such dangerous competition. The end is to be achieved, so far as Germany, Austria and Turkey are concerned, by compulsory terms of peace. The drastic provisions of the treaty just presented to the Germans for their signature leave no doubt on this point.

But how as to the other nations? How can they be restrained? No other method has been or can be suggested but by an agreement such as is embodied in the League. Why should the United States not enter the agreement? It is objected that by doing so this nation is delegating to a foreign body in which it has only one representative the limiting of its power to defend itself from foreign aggression and possible destruction. It is said that it leaves us "naked to our enemies."



The answer to the objections is full and complete. First, the Council in formulating the plan and fixing limits must act unanimously. Therefore, the plan cannot be adopted by the Council without the consent of the American representative in that body. This is a guaranty that the limits to be fixed would be not unfair or unreasonable so far as we are concerned.

Secondly, after the plan has been formulated and the limits fixed, each Government must accept it before it is adopted. Therefore, the Government of the United States through its constitutional agencies, the treaty-making power and in this case the Congress as well, will consent and fix the limits of armament if they may deem it wise. Surely this protects us against the arbitrary or unfair fixing of a limit by any body but ourselves. Are we children who cannot protect our own interests in making such an agreement?

### *No. 12*

## RECIPROCAL CONCESSIONS

### ARTICLE VIII (*continued*)

Under Article VIII we covenant to keep within the limit we agree to for ten years, when the whole plan is subject to revision. Meantime, should conditions change, the Council has power to increase the limit for any government needing it; but it can only be granted with the consent of our representative in the Council. More than this, we can at any time withdraw from all the obligations of the League, including this one, on two years' notice.

It is to be noted that we agree to limit our armament in consideration of the fact that every other League member makes a similar promise as to its armament. Our reduction and limit are to be proportionate to those of other members. Their reduction lessens the necessity for our defense as does the compulsory reduction of the armaments of our enemies in this war. We are not thus left "naked to our enemies," whether of this war or any future war, in any other way than that they are equally "naked" to us.

The necessity for reduction of armament to avoid danger of war has long been recognized and acquiesced in by all nations except Germany. We were among the most earnest in seeking a limit or reduction of armament at the Hague Conferences but



Germany peremptorily refused. Are we now to change our attitude on this crucial question? Did we think that in urging it at The Hague we were to make ourselves "naked to our enemies" by entering such an agreement? Were we only hypocrites when we pressed it upon the conferees at The Hague?

If the great continental powers of Europe and Asia, where the danger of war is much more probable than here, can afford to limit their armaments by convention, can we not do so, when the Atlantic separates us from Europe, and the Pacific from Asia?

More than this, is there not a humorous phase of this objection when we consider the consistent course of this country since the beginning of its history? In spite of the urging of Washington and many of his successors, we never have had an adequate armament until after war has come. Not even for mere police duty have we had a sufficient regular army in time of peace. From soon after the Civil War until the Spanish War, a period of 30 years, with Indian campaigns frequently recurring, for a people increasing from 50 to 90 millions, we had only 25,000 men in our regular army—and since the Spanish War, we have never been able to increase that army beyond one hundred thousand; while in all the details of proper preparatory equipment we were wanting.

We can be sure, therefore, that the Council will recommend a limit of armament for us that Congress in time of peace, will never desire to exceed and will probably fall short of in actual practice. We should be justified in far more concern if the League imposed on us specific obligations as to a minimum armament.

But it is said that it is unconstitutional for our treaty-making power to agree to a limit of armament. The Supreme Court in many cases has decided that the treaty-making power conferred in the Constitution is a very broad one, and that it includes the making of contracts with other nations on any subject matter usually within the scope of treaty-making between nations, and that there are no limitations on it except that a treaty can not change our form of government or cede land of one of our states without its consent. Now the limitation of armament has been a very frequent subject matter dealt with in treaties. Indeed, every one recognizes that it is a most appropriate subject in this very treaty of which the League is a part in respect to the fixing of the armament of Germany. More than this, we have had a treaty with Great Britain for one hundred years in which we agreed to

limit our armament, and we have religiously kept it—in 1817, we mutually agreed with Great Britain not to put a naval armament on the Great Lakes between us and Canada, and that treaty is still in force. It would be difficult to imagine a more convincing precedent than this. In the Clayton-Bulwer treaty of 1850, concerning the construction of a canal in Central America from one ocean to the other, we mutually stipulated not to fortify the canal when built. Our power to limit armament in a treaty is thus indisputable in view of precedent and judicial authority. Our duty by joining with the family of civilized nations in such an agreement, to put a stop to the awful race in armaments, if unrestrained, sure to involve the world again in all its evils, is equally clear.

*No. 13*

THE PRINCIPLE WE FOUGHT FOR

ARTICLE X.

Article X of the League Constitution provides as follows: "The members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all the members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which the obligation shall be fulfilled."

The law of the League with the sanction of the power of the League thus forbids the violation of the international commandment, "Thou shalt not steal by force." It is the embodiment of the principle that we entered and fought this war to maintain. It is the answer to the German doctrine announced through its philosophers, its military writers and its avowed policies, that "might makes right." It is the denial of the principle which Germany set forth in the summing up of her whole imperial purpose, that conquest by force was essential to the progress of God's world, and that she was His instrument in such conquest.

We are met by the objection that the United States should not bind itself not to extend its beneficent influence in the work of civilization through conquest. Such objectors argue that in this way the United States has extended its useful dominion to the

present borders of Mexico and to the Pacific Ocean. If this argument is sound, then the United States should certainly not enter the League. If we yield to it, we ought never to have entered upon the war against Germany. The argument is not in the slightest degree to be distinguished from that of the German philosophers and military men whose purpose Germany was carrying out in this war. If the improvement in civilization and its spread are dependent on war in its present form, involving for the future what is practically world suicide, then surely mankind is in a bad situation. Those who support the League may well leave to the people of the United States and the people of the world the decision whether they prefer a slower method of improving Christian civilization than by one which involves the cruel destruction of one-half the world in order to enable the other half to get on.

The second and the more persuasive objection which is urged to Article X is that it is likely to involve us in wars all over the world, and to require our soldiers to undergo suffering and hardships and to give up their lives in battles waged for remote countries in whose welfare we have but little interest. It is said it will prove to be a heavy burden, both in life and treasure, for our people.

In answering this objection, it is to be noted that the operation of Article X to increase the other obligations of the League is comparatively small.

Under Articles XI to XVII, inclusive, provision is made for the peaceful settlement of all threatening disputes between nations by safeguarding action of the League, by arbitration, by mediation and recommendation of settlement, and by enforcement of covenants restraining war until three months after such machinery for peaceful settlement has failed. By Articles XVI and XVII a breach of such covenants is to be penalized by an immediate and universal boycott of the covenant-breaking nation and then by such military expeditions as the members of the League shall determine necessary on the recommendation of the Council. Unless, therefore, the external aggression in violation of Article X occurs three months after attempts at peaceful settlement under Articles XII to XV have failed so that the covenants of those articles are not broken by it, the penalizing provisions of Articles XVI and XVII would apply to the aggression, whether for the purpose forbidden in Article X or not. In other words, Article X

only increases the obligations of the members of the League beyond those of Article XVI in respect of wars which do not violate the covenants of Articles XII, XIII or XV. Article X becomes practically important, therefore, only after the purpose of the war has been clearly disclosed. A war only for punitive purposes without taking territory or overthrowing a government would not violate Article X.

We have seen this exemplified in our construction of our own Monroe Doctrine. The Monroe Doctrine, as originally declared by Monroe, was Article X limited to the aggression of non-American nations against countries of the Western Hemisphere. When Spain attacked Chile during Mr. Seward's incumbency as secretary of state and Chile called on the United States to defend her, Mr. Seward replied that our policy did not look to our defending an American state against any punitive war by a non-American power, but only against one intended to take territory or to destroy independence. Mr. Roosevelt laid down the same limitation of the doctrine in the Venezuela case as to wars begun merely to collect financial obligations when they did not seek appropriation of territory or deprivation of independence.

The intervention of the League under Article X is, therefore, likely to be invoked only in cases where the victor in a war "legal" under Articles XII, XIII and XV, seeks to impose terms on its enemy contrary to the undertaking of Article X. In all other cases, resort to Article X will be unnecessary because action under it will have been anticipated under other articles. Article X, therefore, enlarges the scope of the obligations of the League much less than has been generally assumed.

Second, should a violation of Article X occur, and the Council advise a plan for fulfilling its obligation by the members of the League, this plan will have to be unanimously agreed upon by the Council. We have constantly one representative in the Council, who must thus join in advising the plan. We can reasonably assume, therefore, that the plan recommended will not involve us in military expeditions unreasonably remote or inconvenient, and that it will advise our action in that part of the world where we can most promptly furnish aid and in respect to wars in which by reason of proximity we naturally have a direct interest.

The discussion of this article will be continued in the next letter.



## No. 14

## CHANCES OF WAR REMOTE

ARTICLE X (*continued*)

There is a third answer to people who object that Article X is likely to involve us in wars all over the world.

Those who look to the successful operation of the League do not expect war at all. The obligation of the members of the League to impose in the first instance a universal boycott against a recalcitrant faithless member constitutes a most formidable threat against any member seeking to violate Article X or the covenants of the following articles. Such a boycott will be a withering ostracism and isolation of a nation that few could endure. No single nation, unless it be the United States or some of the greater South American nations, could live if denied food and raw materials from the rest of the world, and if forbidden the use of a foreign market for the sale of their products.

Second, no nations would willingly face the overwhelming force of the world organized to punish it for violation of its covenants. The minatory influence of a world League, with its members obligated to unite in economic pressure, and proposing, if need be, to use military force, can hardly be exaggerated. Of course if a number of nations entered into a conspiracy to fight and subdue the rest of the world, then this minatory influence might not be controlling, but in that case all the members of the League would wish to join in the war, just as they did in this, and defeat such a conspiracy and vindicate the power of the League for its useful ends.

What we are now answering is the objection that there will be a lot of little wars all over the world, in which we shall be engaged, which will claim our money and our men. It is in restraint of the smaller war in which a large nation attempts to bully a weaker one that the minatory effect of the League will be so controlling. The result will be that the League, having the power completely to suppress the bullying nation, will not need to exercise that power. Indeed it is hardly too much to say that the nations of the League will never need to go beyond the effective discipline of a universal boycott. But if such a war does break out in which we shall deem it our duty to intervene under Article X or the other

articles, one instance of suppression by the joint forces of the League will be a lesson for the world, not needing repetition. It will be worth all it costs in demonstrating that the way of the transgressor who breaks the covenants of the League will be hard.

This conclusion as to the minatory effect of the covenants of the League and the organization of its members to enforce them does not rest merely on an *a priori* reasoning. We have in our own history a striking confirmation of it. In 1823, the Holy Alliance consisting of all the powerful nations of Europe, except Great Britain, gave indication of an intention to aid Spain in recovering her lost colonies in this Western Hemisphere. We had recognized the independence of those colonies, Canning, the British minister for foreign affairs, urged upon President Monroe and John Quincy Adams, the secretary of state, the wisdom of uniting with England in a league to resist the Holy Alliance in overthrowing the independence of these new American states. Thomas Jefferson was consulted, and he advised making a league with England, which he said would not be an entangling alliance, against which he had warned his countrymen, but would be justified by its great public purpose. Monroe and Adams, however, thought it wiser to act alone. John C. Calhoun, the secretary of war, advised strongly against sole action. Nevertheless, President Monroe in his message of that year made the declaration which has since been known as the Monroe Doctrine, and notified the members of the Holy Alliance that the United States would regard any attempt on their part to overthrow an independent state in the Western Hemisphere as an act against the interest of the United States which we should resist. Calhoun and others thought that such a declaration and policy would certainly involve us in many wars.

What has been the result? For now nearly a century, the Monroe Doctrine has been maintained inviolate through a constant assertion of it by succeeding administrations and without firing a shot or the loss of a single soldier. During the Civil War, Napoleon III did attempt to violate it by setting up Maximilian in Mexico as an emperor. As soon as our hands were free, however, and we were able to send Sheridan with an army to the Mexican border, Napoleon withdrew his French troops and Maximilian collapsed. If such a threat by the United States alone, not always so strong as she now is, maintained inviolate a decla-



ration like the Monroe Doctrine for a century, it follows *a fortiori* that the declaration of the League uniting the power of the world in proposed maintenance of a similar doctrine will be equally effective, and that it will not involve the members of the League in any more wars than we have been involved in by reason of the Monroe Doctrine.

Finally, it is objected to Article X that it is too rigid, that progress of the world may need rearrangement of boundaries, an enlargement of one country and a reduction of another or the creation of new states. Article X does not forbid changes in boundaries or the enlargement or reduction of states or the establishment of new states. All that it forbids is the taking of territory by force from a member of the League, or overthrowing its government by violence. Article X does not protect any nation against internal disturbance, rebellion or revolution. It does not prevent the division of states by these means. The objection assumes that war by one existing nation upon another is necessary to the progress of the world to secure useful changes in boundary. We need not deny that a war of aggression may achieve a useful end, but the basis upon which the League rests is that such advantages are outweighed by the suffering in modern war and the possibility that a small war may lead to a general war and an enormous damage to civilization. The effort in the formulation of the present treaty is to make just boundaries and the effect of Article X will doubtless be to maintain those boundaries, in so far as to prevent foreign aggression from affecting them.

The suggestion that Article X was intended to bring to the aid of Great Britain the power of the United States to suppress a revolution in Ireland is of course wholly unfounded, because a revolution in Ireland would not be an attack upon the territorial integrity or political independence of Great Britain *by external aggression*.

The insinuation against Article X that Great Britain secured it in order to get the aid of the United States and other members of the League to defend and protect "her far-flung empire" is also without basis. No war in the last century has been begun against Great Britain to take away territory from her. Neither she nor the United States would feel called upon to invoke the defense of the League to protect their boundaries. They can defend themselves. No other state is likely to attack them, with the purpose of

violating Article X. The reason for Article X is the protection of weaker nations against stronger ones. Great nations are seldom attacked except in case of a conspiracy like that of this present war, and when such a conspiracy exists, all of the members of the League will be anxious to join in its suppression. Article X is one of the great steps forward provided in the League for the securing of general peace.

*No. 15*

THE BASIC PRINCIPLE

ARTICLES XI, XII, XIII

Article XI proclaims the great doctrine of the community of interest in the universal maintenance of peace. It contains the basic principle of the League, worked out in practical form by the other articles; that peace and friendly relations among nations are the concern of all free peoples; that these peoples are justified in protecting one another and in maintaining order in the world for the common good; and that international morality, fair dealing and respect for the rights of others are duties which every country owes to mankind, and which mankind is entitled to expect and demand.

Article XII embodies the substance of the agreement made by the Bryan treaties with a score of nations. It is the culmination of principles for which the United States has long stood. With some exceptions, mostly of small countries, the United States has concluded such treaties with all the states named in the Annex to the Covenant as admitted to the League, or has signed with them treaties which only await formal ratification; and the effect of this article is to cause them to make with one another the agreement for arbitration before war which we have negotiated with each of them.

This article, like the Bryan treaties, is based upon the idea that delay is in itself of great value quite apart from any compulsion to abstain from war after an award has been made. It removes the opportunity for a sudden attack upon an unprepared victim, and it gives a chance for a calm consideration of the consequences of war, instead of the rush of excitement that comes when a nation is plunged into a conflict without reflection.

But the Covenant goes farther by attaching some compulsion to the award, or rather by protecting the nation which complies with its terms. By Article XII the members of the League must submit any dispute between them, likely to lead to a rupture, either to arbitration or to inquiry by the Council. If they agree that the case is suitable for arbitration, they agree further by Article XIII to carry out the award. Now by Article XXI of the Covenant it is provided that this shall not affect the Bryan treaties. But under those treaties the parties are not bound to carry out the award, and one may ask whether this article imports into them an obligation to do so. Clearly it does not, because those treaties cover controversies of all sorts, including such as the nations involved might not be willing to submit to arbitration with a duty of that kind attached; while Article XIII deals only with arbitrations voluntary in each case and accompanied by an agreement to carry out the award. Nevertheless, the provisions of this Covenant certainly prevent a nation dissatisfied with an award under the same treaty from going to war without submitting the dispute to inquiry by the Council. The Bryan treaties furnish therefore an additional means of reaching an accord, but it is not intended that they should impair the guaranties of peace in the Covenant.

The second clause of Article XIII gives examples of the kind of questions deemed suitable for submission to arbitration. They are such as depend upon issues of law or fact, including the interpretation of treaties,—matters that can properly be decided by a court on strict legal principles. They have been termed justiciable questions, in contradistinction to those which are not purely legal but involve divergencies of national interests and policy. These last are political in their nature and must be adjusted or compromised on grounds of international fair dealing and expediency.

The two classes of questions had better not be confused, but each referred to the body most appropriate for its consideration; but a difficulty may arise in deciding whether a question is justiciable or not. One of the parties may well claim that an act performed or threatened by the other, while not strictly a breach of international law, is one which affects its vital interests or security, and that to submit the question to a tribunal to decide on purely legal grounds is to abandon its claim. If Turkey, for example, had proposed before the war to transfer to Germany a tract of

land near the Suez Canal, England would have had no legal right to prevent it; but it would have been an act to which she would have been justified in objecting, and her objection would have been sustained in an international council, although not by a court of law. In Anglo-Saxon countries, where courts are in the habit of deciding questions of their own jurisdiction, it would seem natural to authorize the judicial tribunal of the League to decide whether a question is justiciable or not; but on the Continent of Europe the ordinary courts of law have, as a rule, no such power. In those countries there are habitually two classes of courts; one to decide questions of private law between citizens, and the other to decide cases in which the duties of administrative officials, or the interests of the government, are involved. When a difference of opinion on the question of jurisdiction arises between these courts, it is decided by a court of conflicts composed of members drawn from both. If a nation does not suffer its own courts of law to determine their jurisdiction, one can hardly expect that it would allow an international tribunal to do so.

Probably for this reason the Covenant of Paris, while making plans for a judicial tribunal and setting up a Council of statesmen, does not provide that all justiciable questions shall be submitted to the first and all other matters to the second, but allows any state to claim in effect that the question is not justiciable and to require its reference to the Council. This is not the best arrangement conceivable, but it is far better than having no method of settling disputes except military force.

### *No. 16*

## COURT OF INTERNATIONAL JUSTICE

### ARTICLES XIV AND XV

The Council is directed by Article XIV to formulate plans for a permanent Court of International Justice. Those who are familiar with the debates on this subject at the Hague Conferences, and the difficulties encountered there in reconciling the claims of the large and small nations, will understand why no attempt was made to work out a complete plan and embody it in the Covenant, but the composition of the court was left for

future and more extended discussion by the Council. Resort to this court is not made obligatory. It is to be established as a tribunal to which disputes of a justiciable character can be submitted for decision by consent of both parties. It has also another significant function, for it consists of a body of jurists whose opinion may be sought by the Council or the Assembly in matters that come before them.

Although the members of the League do not agree to submit disputes that may arise between them to this court or to arbitrators, they must submit them to some organ of the League. They agree not only to abstain from war without such a submission, but positively also to submit any dispute likely to lead to a rupture to inquiry by the Council or Assembly, if it is not submitted by consent to arbitration; and either party to the dispute may demand the inquiry. The matter stands thus: For arbitration (compliance with the award being involved), the free consent of both parties is required; for inquiry the demand of either; but at the request of either party the case is laid before the Assembly instead of the Council. The Assembly thus stands in the position of a jury at common law. Neither party to the dispute can refuse the inquiry, but either can claim this form of trial.

When a dispute is referred to the Council it begins its work not in a judicial capacity, but as a mediator. It seeks, not to decide the dispute, but to effect a settlement, which will often involve a compromise. In contradistinction to a strictly judicial procedure, which ought to be public, a mediation is more likely to be successful if the parties do not commit themselves publicly. It is often easier to bring the disputants to an accord if the negotiations are private; and if an amicable settlement is reached it is not always necessary to make public the concessions by which it was attained. In such a case, therefore, the Council is given discretion to publish what it may deem appropriate.

If the dispute is not settled by consent of the parties the function of the Council is changed. It becomes an arbiter instead of a mediator, and publishes a report with recommendations stating what it deems the just and proper action for the parties to take. If the Council is unanimous (except for the parties concerned) the recommendation has a binding effect to this extent, that while there is no obligation under the Covenant to carry it out, there



is an express agreement not to go to war with any party which complies with it. Even after a unanimous recommendation war is not absolutely prevented, for the nation against which it is made may refuse to comply with it, and there may be resort to arms. War in such a case is not, as some people have asserted, authorized, but it is not subjected to a penalty. Unless the nations are prepared to enforce compliance, and at present they are not, the prevention of war can hardly be carried farther. But it may be observed that after a unanimous report, which would undoubtedly be supported by the public opinion of the world, the cases in which a nation failed to comply would be very rare.

Where the recommendation is not unanimous the danger is greater. In effect no judgment has been rendered; all the states represented on the Council may publish their opinions; and the members of the League reserve the right to take such action as they think right. In short the efforts of the League to adjust the dispute have failed. But again we must remember that even in such a case war is improbable. Time will have been given for calm consideration, and the efforts of all the countries not directly involved will be exerted to avoid war—influences that are powerful for peace.

When the dispute is referred to the Assembly the same rules apply, except that a recommendation is effective if supported by the representatives of all the states with seats upon the Council and of a majority of the rest.

Only one other provision of this article remains to be considered. To obviate the fears of many Americans that such matters as immigration and tariffs might, as subjects of dispute, be brought before the Council and the authority of the nation over them be impaired, a clause was inserted, that if either party claims, and the Council finds, that the matter in dispute is one "which by international law is solely within the jurisdiction of that party, the Council shall so report and make no recommendation as to its settlement." This clause inserted for that express purpose would seem to cover the point completely. Nevertheless, it is objected that the Council may differ in opinion from the United States and thus our legislative rights may be restricted. To such an objection there are two answers. In the first place the desire of other countries to preserve their internal independence is as strong as our own. It is inconceivable that the other states represented on the



Council should unanimously decide that the tariff, or any other internal matter that we claim to regulate for ourselves, is not a domestic affair—and it is only unanimously that an effective judgment against us could be given. In regard to the most sensitive point of all, that of immigration, if England were to vote that it was not under domestic control, it might break up the League, but, in view of the feeling in Canada, South Africa and Australia, it would certainly disrupt the British Empire. The second answer is that one cannot make a contract and insist that the interpretation of it shall always be in one's own hands. The clause is perfectly definite, its object is perfectly understood; and if we can trust none of the other principal members of the League to act honestly, fairly and reasonably let us make no League with them, and leave the world in the state of mutual suspicion, distrust and suppressed hostility that is a discredit to civilization and a curse to mankind.

*No. 17*

SANCTIONS BEHIND OBLIGATIONS

ARTICLE XVI

The world war has brought home the need of having behind international obligations a sanction that shall make them a binding force, instead of engagements which a faithless nation can break with impunity. Without Articles X and XVI the League would be no more than an agreement on the part of the members that they would do right, with no compulsion for those that broke their word. These articles make it a real association to maintain and enforce peace.

The two articles must be read together. To a large extent they cover the same ground and provide for the same contingency, Article XVI declaring in part how the obligations of Article X are to be carried out; and yet they do not wholly coincide. Cases may arise which bring one of them into effect, but do not touch the other. If, for example, an arbitral award, let us say on a question of ill-treatment of citizens, is made in favor of one nation with which the other fails to comply, the first may, to compel compliance, attack the second without incurring the penalties of Article XVI, because in so doing it is not resorting to war in disregard of its covenants. But the first nation would not be at

liberty to destroy the independence or annex the territory of the second. That would entail the obligation of Article X. On the other hand, a war begun without submission to arbitration or inquiry would be a violation of Article XVI, but not of Article X if it did not involve the integrity or independence of the country attacked. This was true of our war in 1812; and on the same principle President Roosevelt took the ground that hostilities by European nations to collect claims against Venezuela did not violate the Monroe Doctrine if no annexation of territory or destruction of independence was contemplated.

Article XVI declares that if any member of the League should resort to war in disregard of its covenants "it shall *ipso facto* be deemed to have committed an act of war against all other members of the League, which hereby undertake immediately to subject it" to a boycott and blockade, and to do certain other things. Now it must be observed that this sanction is automatic on the part of the members of the League. In case of a resort to war contrary to the Covenant, they undertake jointly and severally to subject the offending nation to the prescribed penalty immediately—not if and when directed by the Council. That body has no power to order or to release the obligation which is assumed as a mutual guaranty. If France, for example, should be attacked by Germany, she would have a right to call upon us, and all the other members of the League, to sever all trade and intercourse with Germany, and we should be bound by the Covenant to do whatsoever the Council might think. The obligation is absolute, and the Council has nothing to do with the matter, except to recommend what, if any, military and naval forces the members of the League shall severally contribute.

The members of the League agree that an attack made in disregard of the Covenant upon any one of them shall be deemed an act of war against all of them. This, while justifying any of them in going to war with the aggressor, does not oblige them to do so; but they do agree to subject it to treatment of a hostile nature; and also to give to any of their number that is actually engaged in the war aid that by international law is given only to a cobelligerent. They agree to boycott the offender completely, to blockade it by sea and land, to support one another financially and economically, to aid in resisting any special measures aimed at one of their number, and to afford a passage through their

territory to the troops of any of the members that are fighting the offender.

To some people it would seem better to have agreed boldly that all the members of the League should immediately declare war on the aggressor. The situation would thus have been more plain; but it would not in fact have been very different. If the aggressor were a small country a pacific blockade would be enough, and other military operations by the members of the League, or at least by those at a distance, would not be needed, either under the Covenant as it stands, or under an express agreement to declare war. If, on the other hand, the aggressor were a large and powerful nation the measures required by the Covenant would practically be certain to bring about collisions and shortly actual war with all the principal members of the League. There would, indeed, be an advantage in providing that an unjustifiable attack on one member of the League should involve immediate war with all the rest. The object of the sanction is not to punish, but to deter; and the greater the certainty of meeting with an irresistible armed force the less the danger that any ill-disposed nation will venture to precipitate a conflict. The proposed defensive alliance of England, France and the United States against Germany would have that effect.

Other people criticize the Covenant from the opposite standpoint. They complain that it may bring us into a war in the causes of which we are not directly concerned, and that our young men may be sacrificed in foreign quarrels. Often without being conscious of it, these critics are ultra-pacifists, for they shrink from using the force necessary to prevent war in the world. They are like people who should object to a police force created to maintain order in the streets for fear that the policemen might get hurt. If we believe in preventing war we must use the means necessary to do so. We must be willing to risk a small sacrifice to insure against a larger one.

### *No. 18*

## NATIONS OUTSIDE LEAGUE

### ARTICLES XVII-XX

The object of the League is to prevent war, not only among its members, but also by, against or between nations outside of the

Covenant; and Article XVII is aimed at such cases. The outside nation engaged in a dispute, even if of a character that threatens war, is not treated as an outlaw, but is offered for the purpose of the dispute the benefits, as well as the obligations, of membership in the League. If it accepts the invitation it obtains the same protection as a member from attack by its adversary whether with or without the League; and if there is a voluntary submission to arbitration it has the same right as a member to demand that the award be carried out. This is certainly treating the outsider fairly.

On the other hand the outsider, whether it accepts the invitation or not, is restrained from attacking a member by the same penalties that would be applied to a signer of the Covenant. In other words the members agree to help one another against attacks from outside as well as against those from one of their own number. They could hardly do less.

When the controversy is between two outsiders both are invited to join the League for the purpose of the dispute. If either of them accepts, the position is exactly that already described, because the one accepting has for this purpose the standing of a member of the League. If both refuse, the obligations of membership can not be directly applied, but hostilities must be prevented, and the Council is authorized to take such measures and make such recommendations as will prevent them. Since the Council has no forces under its orders and can not command those of its members without their consent, the measures it can take must be of a diplomatic nature, to be followed by recommendations for the use of force if necessary. But practically this will not happen, because it is highly unlikely that both of the outside nations desire war, and the one that does not will certainly accept the invitation of the League.

This method of preventing war with or among nonmembers is both fair and ingenious. They are subjected to the penalties and are offered the benefits of membership, except that a temporary membership gives no consultative voice in the general management of the League. Hence there will be a decided advantage in entering the League permanently, and an inducement for every trustworthy nation to do so; until it becomes an association of all truly self-governing countries to maintain the peace of the world. Hence also the power of expulsion, conferred upon the Council by



the last clause of Article XVI, becomes a serious penalty that will go far to secure the carrying out of arbitral awards and the observance of all the other obligations of the Covenant.

The object of Article XVIII requiring treaties or engagements to be registered with the Secretariat and published is simply to prevent secret treaties and especially secret military alliances. It is wholly in accord with our national traditions. Some people have suggested that an honorable country which has made a secret treaty will feel bound in honor to execute it, and therefore the provision that such a treaty shall not be binding will have no effect. To this there are two answers. First, that an honorable country will not make a secret treaty contrary to its agreement in the Covenant. Second, that in the free nations of the League treaties can not practically be carried into effect without the action of the representative legislative bodies, and these might naturally resent a secret treaty made without their knowledge in violation of the Covenant; might very properly regard it as unauthorized, and refuse to carry it out. A change of the party in power might well result in its repudiation; for such a treaty would be a fraud, not only upon the other members of the League, but also upon the legislature and people of the country that made it. A secret treaty would be a dangerous thing for a government to undertake, and a dangerous thing for the other nation to rely upon. Therefore it is not likely to be made.

The criticism that in the United States a treaty is made when the ratifications are exchanged has no weight as an objection to this provision, because the exchange can be made when the treaty is delivered to the Secretariat of the League, as a deed of land is often delivered at the registry of deeds.

Article XIX, which authorizes the Assembly to advise the reconsideration of treaties that have become inapplicable and the consideration of international conditions endangering the peace of the world, needs no explanation. It gives power merely to discuss and suggest, and is part of the Assembly's general function of debating international relations, especially such as may threaten war.

Article XX, providing for the abrogation of all obligations between members of the League inconsistent with the Covenant, and forbidding any such hereafter, is merely an express declaration of what would be otherwise implied. Clearly if a nation enters

into this Covenant—which is a treaty—it agrees not to do anything incompatible therewith, and *a fortiori* not to agree to do something inconsistent therewith. The further agreement to seek release from any prior inconsistent treaty with a nonmember is what any honorable nation would do.

No. 19

## ARBITRATION

Senator Lodge objected to the original League Covenant upon the ground that it bound us to submit every possible international dispute or difference either to the League court or to the control of the Executive Council of the League. Senator Root, on the other hand, objected that it abandoned the principle of compulsory arbitration for which the American delegation contended in the Second Hague Conference, and failed to establish a permanent court of arbitration. By the revised Covenant (Article XII),

The members of the League agree that, if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council.

This provision clearly adopts the principles contended for by the American delegates to The Hague. It is supplemented by Article XIII, whereby it is agreed that whenever any dispute shall arise between members of the League, which they recognize to be suitable for submission to arbitration, and which can not be satisfactorily settled by diplomacy, they will submit the whole subject matter to arbitration; and by Article XIV, which requires the Council to formulate and submit to the members of the League for adoption plans for the establishment of a permanent Court of International Justice, which shall be competent to hear and determine any dispute of an international character which the parties may submit to it, and which may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.



Senator Root urged an amendment by which the members of the League should agree to refer to arbitration all disputes of a justiciable character, which he defined to be

disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which, if established, would constitute a breach of any international obligation, or as to the nature and extent of the reparation to be made for any such breach.

The revised Covenant, without specifically adopting that definition, in Article XIII, declares all disputes of the character mentioned by Senator Root to be "among those which are generally suitable for submission to arbitration;" and further, that for the consideration of any such dispute, the court of arbitration to which the case is referred shall be the court agreed on by the parties to the dispute, or stipulated in any convention existing between them. If, however, the parties to any such dispute should fail voluntarily to submit it to arbitration, they are bound, by Article XV, to submit it to the Council. In that event, the Council is to endeavor to effect a settlement, and if it fail to do so, then it may either unanimously, or by a majority vote, publish a report containing a statement of the facts of the dispute and the recommendations deemed just and proper in regard thereto. If the report is unanimously agreed to by all the members of the Council, except those representing the disputants, the members agree not to go to war with any party to the dispute which complies with the recommendations of the report. The Council may also refer any such dispute to the Assembly, and shall so refer it at the request of either party made within 14 days after the submission of the dispute to the Council. In that event the provisions of Articles XV and XVI relating to the action and powers of the Council shall apply to the Assembly, provided that the report, in order to have the same effect as the unanimous report of the Council, must be concurred in by the representatives of those nations which are represented on the Council, and of a majority of the other members of the League,—exclusive, of course, of the disputants in each case.

The defect in this plan is that it fails to lay down any rule binding upon the Council or the Assembly for the determination of

disputes of a justiciable nature. This omission is somewhat emphasized by the provision in Article XV, that,

if the dispute between the parties is claimed by one of them, *and is found by the Council*, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall so report and shall make no recommendation as to its settlement.

In this case, the Council must be governed in its decision by international law, whereas there is no such provision in express language made binding upon the Council or Assembly with respect to arriving at their recommendations or report concerning disputes, even of the nature described in Article XIII, and defined by Senator Root as justiciable.

But it can hardly be imagined that the Council would decide, except upon well-recognized principles of international law, any dispute which involves the interpretation of a treaty, a question of international law, breach of international obligation, or damages from such breach. It also may reasonably be assumed that there will grow up in the application of these provisions a body of precedents, which in themselves will constitute codifications of international law, and thus carry out one of the purposes expressed in the preamble; namely, the firm establishment of the understandings of international law as the actual rule of conduct among governments.

Article XVI provides that, should any member of the League resort to war in disregard of the covenants above referred to, it shall *ipso facto* be deemed to have committed an act of war against all the other members of the League, involving as a consequence one or all of the following penalties: (1) the severance of all trade or financial relations and the termination of all intercourse between the members of the League and the covenant-breaking state; (2) the expulsion from the League of the covenant-breaking state; and, (3) such military and naval action as may be agreed upon by the League.

The amended Covenant certainly has not weakened the provisions of the original Articles XI, XII, XV and XVI, concerning which Senator Root wrote:

I think those provisions are well devised, and should be regarded as free from any just objection, so far as they relate to the settle-

ment of the political questions at which they are really aimed. The provisions which taken together accomplish this result are of the highest value. They are developed naturally from the international practice of the past. They are a great step forward. They create an institution through which the public opinion of mankind, condemning unjust aggression and unnecessary war, may receive effect, and exert its power for the preservation of peace, instead of being dissipated in fruitless protest or lamentation.

Indeed, the revised Covenant obviously aims at a wider field, and embraces within its scope the settlement, not only of political, but of legal questions as well. It is, therefore, a great improvement upon the original scheme.

### *No. 20*

## HISTORICAL BACKGROUND

The Second Hague Conference in 1907 agreed upon a convention for the pacific settlement of international disputes. It established a Permanent Court of Arbitration to sit at The Hague, and it provided that

in questions of a legal nature and especially in the interpretation or application of international conventions arbitration is recognized by the contracting powers as the most effective and at the same time the most equitable means of settling disputes which diplomacy has failed to settle.

Consequently, it would be desirable that in disputes about the above mentioned questions the contracting parties should, if the case arose, have recourse to arbitration in so far as circumstances permit.

The United States Senate, in ratifying this treaty on April 2, 1908, did so with the following proviso, namely:

Nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon, interfering with, or entangling itself in the political questions of policy or internal administration of any foreign state; nor shall anything contained in the

said convention be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions.

And further:

That the United States approves this convention with the understanding that recourse to the permanent court for the settlement of differences can be had only by agreement thereto through general or special treaties of arbitration heretofore or hereafter concluded between the parties in dispute.

It further declared that the United States exercised the option contained in Article LIII of the convention, which excluded from the Permanent Court the power to frame the submission for arbitration required by general or special treaties concluded, or thereafter to be concluded, by the United States, and specified that the submission required by any treaty of arbitration to which the United States should be a party must be settled by a special agreement between the parties, unless the treaty should otherwise expressly provide.

Following the Hague convention, Secretary Root negotiated a series of separate treaties with different countries, whereby it was agreed—all in substantially the same form—that differences which might arise between the parties of a legal nature, or relating to the interpretation of treaties, which it might not have been possible to settle by diplomacy, should be referred to the Permanent Court of Arbitration established by the Hague convention, provided they did not affect the vital interests, the independence, or the honor of the two contracting states, and did not concern the interests of third parties. These treaties further provided that in each individual case the contracting parties should conclude a special agreement defining the matter in dispute which was to be submitted to arbitration, which agreements should be made by the President by and with the advice and consent of the Senate. Most of these treaties were limited to a period of five years; a number of them have since been extended, and are now in force. The countries with which they were made include among others Great Britain, France, Italy, Japan, Spain, Sweden, Switzerland, Norway, Brazil and Ecuador.

During the Taft Administration, Secretary Knox negotiated treaties with Great Britain and France, whereby it was agreed that all differences relating to international matters in which the high contracting parties are concerned, by virtue of a claim of right made by one against the other, under treaty or otherwise, and which are justiciable, by reason of being susceptible of decision by the application of principles of law or equity, shall be submitted to arbitration at The Hague. These agreements constituted treaties of arbitration which bound the contracting parties to submit all questions of the character mentioned to arbitration by The Hague tribunal. They went further, and provided that questions of difference arising between the parties, not of the character which it was agreed should be submitted to arbitration, should be investigated by a joint high commission, to be constituted in accordance with the provisions of the treaty, and bound the parties not to go to war over such questions until one year after the report of the commission. But the Senate, while voting on March 5, 1912, to ratify these treaties, amended them in certain particulars, and in the resolution of ratification, reserved from their operation questions affecting the admission of aliens, the territorial integrity of the several states of the United States, the alleged indebtedness or monied obligations of any state, and any question which depends upon or involves the maintenance

of the traditional attitude of the United States concerning American questions commonly described as the Monroe Doctrine, or other purely governmental policy.

President Taft would not accept the qualifications thus imposed by the Senate upon the treaties, and therefore neither of them became effective.

Under the Wilson Administration, Secretary Bryan negotiated a series of treaties, in 1913-1914, with 21 different countries, which were ratified by the Senate without any reservation whatever, whereby the high contracting parties agreed

that all disputes between them of every nature whatsoever, which diplomacy shall fail to adjust, shall be submitted for investigation and report to an international commission to be constituted in the manner prescribed



in a designated article of the treaty. They further agreed not to declare war or begin hostilities over any such question during such investigation and report.

Article XXI of the revised Covenant expressly declares: "Nothing in this Covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration." This provision adopts one of Senator Root's proposed amendments to the original Covenant.

In view of this history, it is but a conservative step forward now to agree with all the other powers composing the League of Nations to refer to arbitration any justiciable dispute which may arise with any of them, and to submit to the Council for investigation and report any question of a different character, and also not to resort to war until either arbitration or investigation shall have been concluded, and even then, not to make war against a party which shall comply with an arbitral award, or the unanimous recommendation of the Council.

### *No. 21*

## THE MONROE DOCTRINE

Article XXI of the revised Covenant of the League provides as follows:

Nothing in this Covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration or regional understandings like the Monroe Doctrine for securing the maintenance of peace.

It is asserted that this article does not adequately reserve the Monroe Doctrine because it is not a "regional understanding" and its purpose is not the "maintenance of peace." It is also objected that, although the Monroe Doctrine is a national policy, any dispute concerning its reservation in Article XXI shall be submitted to the League for arbitration or examination under Articles XIII or XV. The reason for these objections disappears upon an examination of the general purpose of the League and the character and effect of the Monroe Doctrine.

In 1823 a number of South American states, having thrown off the yoke of Spain, had become independent republics. It was believed that the European powers constituting the Holy Alliance were planning to overturn the independence of the new states and by making them colonies of a European state to introduce in this hemisphere the autocratic monarchical principle. It was to frustrate such a design that President Monroe in his annual message to Congress said:

“We should consider any attempt on their part [the part of European powers] to extend their system to any portion of this hemisphere as dangerous to our peace and safety”; and “We could not view any interposition for the purpose of oppressing them [the young American Republics] or controlling in any other manner their destiny, by any European power, in any other light than as the manifestation of an unfriendly disposition toward the United States.”

The principle of the doctrine thus proclaimed has been so developed during the last hundred years that it now includes the prohibition of attempts by foreign nations, whether by war or purchase, or diplomatic intrigue, to make territorial acquisitions or establish new strategical footholds upon or near the Western Hemisphere, or to secure political advantage in the domestic affairs of American nations.

The Monroe Doctrine is not a principle of international law. It is a national policy based upon the right of every nation to protect itself against acts tending to embarrass it in preserving its own national interests or political institutions. It is founded upon the same right as the familiar concert of European powers, except that it affects a greater number of nations more widely separated geographically, and is asserted by a single powerful nation able, without the sanction of treaty stipulations, to maintain it. It does not become effective so much by the acquiescence of the American nations subject to its operation as from its recognition by nations of other parts of the world as a political policy which can not be disregarded by them except at the risk of war with the United States. Since the Monroe Doctrine is thus based upon an inherent national right, it is entirely consistent with the principle of mutual self-protection underlying Article X of the Covenant of the League, which seeks to check threatened “external aggression” affecting “the territorial integrity and existing political independence of all members of the League.”

While doubtless Article X was designed primarily to give protection to the seven new European republics and the four autonomous nations in the Near East, created under the Treaty of Peace, and probably also to France and Belgium, in its broader aspect it was intended, to use the words of the Preamble of the Covenant, "to achieve international peace and security" by discouraging hostile aggression everywhere; and so far as it prevents a European or an Asiatic nation from interfering with the territorial integrity or the existing political independence of any nation of the Western Hemisphere, it accomplishes in that part of the world precisely the result aimed at by the Monroe Doctrine. And, furthermore, quite independently of the new Article XXI, the United States would undoubtedly be the nation called upon under Article X to repel an aggression upon an American state, because, not only would its political interest be immediately involved, but also because, by reason of territorial proximity, it could most conveniently act.

It is in the light of these effects of Article X that the express recognition of the Monroe Doctrine in Article XXI should be examined.

It is argued that the doctrine itself is inadequately reserved by referring to it as a "regional understanding." It need not be denied that this descriptive phrase was not the best that could have been selected to define the Monroe Doctrine, although the doctrine is "regional" in that it relates to a particular region and is an "understanding" in that it is widely accepted by the nations of the world. Probably the draftsmen of Article XXI, the majority of whom were European statesmen, thought it unwise to attempt to formulate a definition of an American political policy, concerning the limitations of which American statesmen have not always themselves agreed. But the important thing is that the Monroe Doctrine is declared to be "valid," thus rendering its continued existence unaffected by the Covenant; and, as the common understanding in this country of its character and effect is consistent with the principle of the general purpose of the Covenant, as indicated in Article X and the other articles designed to preserve the peace of the world, it is a far cry to argue that the somewhat inept use of the phrase "regional understandings" indicates that the high contracting parties intended by indirection to raise doubts as to the complete reservation of the doctrine.

THE MONROE DOCTRINE (*continued*)

No definition of the Monroe Doctrine having official sanction has ever been given except by Presidents or Secretaries of State; and, except in the few concrete cases that have required its application, they have generally contented themselves with describing its historical origin and the general principle on which it is founded. Even the Senate, in ratifying the Hague convention of 1907, and in seeking to reserve the Monroe Doctrine, referred to it as our "traditional attitude toward purely American questions," leaving the character of that "attitude" as much subject to question by the signatories as it had been before the reservation was made. And, although, on the one hand, Secretary Olney in 1895, in the Venezuelan controversy, said: "To-day the United States is practically sovereign on this continent and its fiat is law upon the subjects to which it confines its interposition"; on the other hand, President Roosevelt in 1901 said that the Monroe Doctrine did not prevent foreign nations from collecting by force debts owing by American nations; and in 1866 this country refused to protect Chile when Spain was bombarding her ports, because it would not intervene in wars between European and American states "if they are not pushed . . . to the political point."

These references serve to point out the difficulty of an attempt in any diplomatic document to *define* the Monroe Doctrine.

But however inept it may be to refer to the Monroe Doctrine as a "regional understanding," Article XXI correctly describes it as "securing the maintenance of peace." It was of the essence of the doctrine that foreign nations should not be permitted to implant among the nations of the Western Hemisphere autocratic principles of government lest they should become a menace to the free institutions of the United States, and we might again have to resort to arms for the maintenance of the principles settled by the Revolution; and in practice the dominance of this country in the affairs of the Western Hemisphere has undoubtedly saved it from repeated exploitation at the hands of European and Asiatic nations. The frequent revolutions in South and Central America, often accompanied by the seizure of power in the name of liberty by disloyal



and unscrupulous dictators, would have afforded tempting opportunities to European autocracies, at small expense and by the use of a merely nominal force, to secure a permanent foothold upon this continent, gradually establishing colonies which would have become a menace to our republican institutions, or at least a source of national disquietude. All of this has been prevented without the use in a single instance of military force by the Monroe Doctrine, which is, therefore, aptly described in Article XXI as "securing the maintenance of peace."

But if the Senate is of the opinion that the use of the words "regional understanding" creates any doubt as to the meaning of Article XXI, it can, in ratifying the treaty, make a declaration that its action is taken under the reservation that the Covenant is to be so construed as to leave the Monroe Doctrine unaffected. In view of the general purpose and effect of the League, referred to above, such a reservation would not be regarded as a substantial amendment of the Covenant. Upon this point the official commentary of the delegates of Great Britain upon the revised Covenant is particularly pertinent. They refer to the Monroe Doctrine and similar understandings as having "shown themselves in history to be not instruments of national ambition but guaranties of peace," and add:

The origin of the Monroe Doctrine is well known. It was proclaimed in 1823 to prevent America from becoming a theater for the intrigues of European absolutism. At first a principle of American foreign *policy*, it has become an international *understanding*, and it is not illegitimate for the people of the United States to ask that the Covenant should recognize this fact.

In its essence it is consistent with the spirit of the Covenant, and, indeed, the principles of the League as expressed in Article X represent the extension to the whole world of the principles of this doctrine; while, should any dispute as to the meaning of the latter ever arise between the American and the European powers, the League is there to settle it.

This commentary receives especial force from the facts that England had a close historical connection with the proclamation of the Monroe Doctrine in 1823 and that in the Venezuelan dispute the most advanced claim as to the scope of the doctrine was sharply called to her attention. No delegation at the Peace Con-



ference probably understood better than that of Great Britain how the Monroe Doctrine was intended to be affected by Article XXI.

As the "validity" of the Monroe Doctrine is not "affected" by Article XXI, the doctrine is excluded from the operation of the Covenant. If, therefore, a case within the principle of the doctrine should arise it would not be within the jurisdiction of the League. Even if a question whether the doctrine extended to a particular situation should be made the subject of inquiry under Article XV, there should be little doubt of the result; for, if we except a few cases where doubt has existed as to the applicability of the doctrine, and the belated assertion of President Carranza that it is nonexistent, it is now understood by all the nations of the world.

But it is too late to have forebodings on account of the remote chance that a question concerning the Monroe Doctrine may have to be submitted to arbitration or inquiry under the Covenant; for, by the Bryan treaties, ratified by the Senate in 1914 and 1915, we have already agreed with Great Britain, France, Italy and six other European nations, as well as with Chile, Brazil, Peru and seven other American states, that all disputes of an international character, including those affecting national honor and vital interests, such as the Monroe Doctrine, shall be submitted to an international commission for investigation and report, and that pending such report war will not be declared or hostilities commenced. These treaties are "international engagements" and their validity, within the reservation of Article XXI, is not affected by the Covenant. Under the Bryan treaties, therefore, investigators, a majority of whom are not to be American citizens, would have jurisdiction to consider and report concerning any dispute arising under the Monroe Doctrine; and while the investigation was proceeding this country would be obliged to abstain from enforcing the doctrine, however exigent the situation might be.

Under such circumstances the question whether Article XXI adequately reserves the rights of the United States under our traditional national policy loses much of its importance.

### *No. 23*

## ARTICLES XXII-XXV

The preceding articles of the Covenant have dealt almost exclusively with the organization of the League and the prevention of

war. Article XXII and the three that follow are concerned with the improvement of conditions in which the people of many countries take, or ought to take, an interest.

The first of these articles deals with races hitherto ruled by Germany and her allies and not yet qualified to govern themselves. Its object is two-fold: First, to protect and assist peoples on their way to complete independence; to guard them from dangers, and guide them while still inexperienced in the use of popular government. During that period they would be likely to make mistakes which might expose them to external and internal perils. The second object is to prevent selfish exploitation of backward peoples and natural resources. These regions were won by all the nations that helped to win the war, and all have a right and duty to demand that the native inhabitants shall not be maltreated, and that one of the victors shall not monopolize to the exclusion of other countries any raw products essential to the industries of the world.

Such things are properly placed under the control of the League; and if so the plan of mandatories acting under contract with the League, and rendering an annual report of their stewardship to the Council, with a permanent commission to supervise the administration, seems well devised for the purpose. No nation need accept a mandate unless it pleases, but if it does so it accepts the trust under the conditions prescribed by the League. The whole plan marks a great step forward in the recognition of the common responsibility of civilized nations for the weaker peoples of the earth; in contrast with the principle of exploitation for the national benefit of those who can succeed in conquering and owning them, or who can by purchase, bargain or force of arms obtain a transfer of them from their former masters. To establish the principle, to provide for inspection and publicity, is a long advance, and may be expected to have a moral effect upon the government of all native races whether under the control of the League or not.

Article XXIII carries the conception of responsibility, instead of exploitation, still farther, applying it to the conditions of labor, the treatment of all native races, the white slave trade, the traffic in opium and other dangerous drugs, the trade in arms in disorderly regions, fair commercial opportunity, and the prevention of disease. Everyone familiar with the difficulty of regulating these things properly under the pressure of competition will

appreciate the importance of concerted action. In such matters the work of the League must be consultative and advisory, because over the legislation and administration of its members in their own countries it has no control. But the members themselves covenant to do these things, and in the case of labor to endeavor to maintain fair and humane conditions not only in their own country, but also in all others to which their commercial and industrial relations extend. They agree further to maintain for that purpose the necessary international organizations. The publicity which will result can not fail to be of value, and the total effect may be expected to be large and highly beneficial.

Article XXIV deals with international bureaus for the administration of matters of common interest. Few persons have any conception how many of these exist. The best known is the Universal Postal Union, but there are many others relating to telegraphs, wireless, agriculture, railroads, river navigation, industrial and literary property, sanitation, crime, scientific subjects, and other things. Some of them include all civilized countries, some only those neighbors directly concerned. There are also a number of commissions of various kinds. Some were in existence before 1914 and the war has brought in among the Allies many more in the effort to unify the conduct of military action, and the vast auxiliary supply services connected therewith. Some of these will be useful in peace as well as in war and will survive.

Hitherto the different bureaus have been independent of one another; but, it is obviously better administration to place them under one supervising authority, where information about them can be readily collected, so that the Council and Assembly can discuss them, bring grievances to light, demand explanations and correct abuses. This is the object of Article XXIV.

The work done by the members of one organization in the war has been so great that it seemed possible to make a larger use of it for the relief of suffering in time of peace. Both as a recognition of its services and with a view to further work, the members of the League agree by Article XXV to promote the establishment and co-operation of national voluntary organizations of the Red Cross.

*No. 24*

## THE COLONIAL MANDATES

General Smuts, in December last, published a little brochure, which he called "The League of Nations; a Practical Suggestion." In it, he outlined his project of a league, which has been very closely followed in the Covenant which has been adopted by the Peace Conference in Paris. General Smuts pointed out that one of the first results of the war would be the removal of existing sovereignties over the colonial empire of Germany and the nations heretofore under Ottoman rule, and the establishment of a group of new and untried states in Europe.

With respect to the colonies, he insisted that none of these territories should be annexed by any of the victorious powers; that in their future government any external authority, control or administration, which might be necessary because of their imperfectly developed civilization, should exclusively be vested in and exercised by or on behalf of the League of Nations. He pointed out that, wherever in the past joint international administration had been applied to territories or peoples, it had been found wanting; that the only successful administration of colonies or dependencies was that which had been carried out under the direction of one state with sufficient experience for the purpose. He advocated administration of the peoples and territories coming under the jurisdiction of the League, by nominating a particular state to act for and on behalf of the League in the matter, and that wherever possible, this agent or mandatory of the League should be nominated or approved by the people of the territory in question; the degree of authority, control or administration to be exercised by the mandatory state to be in each case laid down by the League in a special act or charter.

During the war, different powers of the Alliance came into the possession of various territories or colonies, and, at the time of the opening of the Peace Conference, some of them gave evidence of a strong desire to continue such possession for their own benefit. On the other hand, Great Britain displayed a very strong disinclination to exposing herself to the charge of having waged war to extend her colonial empire. General Smuts' proposal furnished a solution of both of these difficulties, and the principles advocated by him were closely followed in Article XIX of the

original Covenant of Paris. Great objection to it, however, was expressed in some American quarters, upon the ground that the League might require a nation—ours, for instance—without its consent, and even against its will, to undertake the administration of some far-distant country. The apprehension was not warranted by the language of the Covenant, but the revised Covenant has removed any possible basis for it, by expressly limiting the selection of mandatories of the League to those states who are willing to accept the mandate.

The history of German colonization is one of the exploitation of semi-barbarous peoples for the benefit of Germany, without the slightest regard to the welfare or interests of the peoples she ruled over. It is, therefore, unthinkable that any of the African or Australasian possessions of Germany should be restored to her, nor is it conceivable that the allied powers should return to the rule of the unspeakable Turk any of those regions which have been freed from Ottoman tyranny.

The African colonies are, and for many years will be, incapable of governing themselves. Such regions as Mesopotamia, Syria and Armenia are occupied by peoples unaccustomed to self-government, and incapable, at the present time, of being intrusted with complete political autonomy. While each of these countries was occupied by the army of one of the allied powers, yet, in a general sense, their possession was the result of the combined effort of the Allies, and no one power is warranted in claiming the right, or should be charged with the duty, of continued occupation and sole responsibility for the government of such regions. The suggestion of General Smuts was followed by the Peace Conference as affording a just solution of a difficult problem.

Article XXII of the revised Covenant declares that there shall be applied to the problem of governing the states or territories from which the sovereignty exercised before the war has been removed and which are occupied by peoples not yet able to stand by themselves,

the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.

It declares the best method of giving practical effect to this principle to be that the tutelage of such peoples be intrusted to



advanced nations, who, by reason of their resources, experience or geographical position, can best undertake this responsibility, and that the character of the mandate under which they should act must differ according to the stage of development of the people, the geographical situation of the territory, its economic conditions, and other similar circumstances. In the case of communities formerly belonging to the Turkish Empire which have reached a stage of development where their existence as independent nations can provisionally be recognized, subject to the general assistance and control of a mandatory, it is declared that the wishes of those communities should be the principal consideration in the selection of a particular mandatory. Other peoples, especially those of Central Africa, are at such a stage of development that the mandatory must be responsible for the administration of the territory, under conditions which will guarantee freedom of conscience or religion, subject only to the maintenance of public order and morals, the prohibition of abuses, such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military or naval bases, and of military training of the natives, except for their own police and defense purposes, and under such conditions also as will secure equal opportunities for the trade and commerce of other members of the League. These provisions should effectively preclude the possibility of such scandals as the history of the Kongo Free State affords.

Other territories, such as Southwest Africa and certain of the South Pacific Islands, which are contiguous to organized and civilized powers of the character of the South African Union or the Australian Commonwealth can, it is pointed out in the revised Covenant, best be administered as integral portions of the territory of such an adjacent nation, and under its laws, subject to the safeguards above mentioned, and in the interests of the indigenous population.

In every instance, the mandatory is required to render to the Council an annual report of its stewardship, and a permanent commission is to be constituted to receive and examine these reports, and to advise the Council on all matters relating to the observance of the mandates.

The United States is not required, under the treaty, to accept a mandate to administer any one of these territories. But the

direct responsibility which it has assumed in the settlement of the terms of peace may, and probably will, impose upon it the moral obligation of discharging some duty in this direction. The experience which has been gained in the administration of our Asiatic and other insular possessions should have fitted us for the performance of such a trust.

*No. 25*

## LABOR

The labor article in the original Covenant (Article XX) merely bound the parties to the establishment, as a part of the League organization, of a permanent Bureau of Labor, in furtherance of an effort to secure and maintain fair and humane conditions of labor in the countries of the League and those with which they should have commercial and industrial relations.

Before the revised Covenant was adopted, the Commission on International Labor Legislation, appointed by the Peace Conference, had submitted a report recommending the establishment by the League of a permanent organization for the promotion of international regulation of labor conditions. With that in view, there was substituted for Article XX a new Article XXIII, reading as follows:

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the members of the League:

*a.* Will endeavor to secure and maintain fair and humane conditions of labor for men, women and children both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations;

*b.* Undertake to secure just treatment of the native inhabitants of territories under their control;

*c.* Will intrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs;

*d.* Will intrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest;

*e.* Will make provision to secure and maintain freedom of communication and of transit and equitable treatment for the commerce of all members of the League. In this connection the special necessities of the regions devastated during the war of 1914-1918 shall be borne in mind;

*f.* Will endeavor to take steps in matters of international concern for the prevention and control of disease.

The proposed International Labor Convention which is to be a part of the treaty of peace, a supplement to the League Covenant, seeks to accomplish the objects recited in Article XXIII through the medium of a permanent organization, which shall consist of a General Conference of the representatives of the respective powers and of an International Labor office. The General Conference is to be composed of representatives of states members of the League, chosen in a somewhat novel manner: Each nation is to have four delegates, two representing its Government, one representing employers and the other representing working people. These delegates are to vote individually, not as a national unit. The International Labor Office is to be under the control of a board of 24 members, again to be chosen in a novel and complicated manner. Twelve shall be representatives of the Governments, six shall be elected by the delegates to the Conference representing the employers, and six by those representing the working people. Of the 12 government representatives, eight shall be designated by the powers which are of chief industrial importance, and four by the powers selected for that purpose by the governmental delegates to the Conference, excluding the delegates of the above mentioned states. No one of the parties, together with its dominions and colonies, shall be entitled to nominate more than one member of the governing body of the International Labor Office.

The International Labor Office is to collect and distribute information on all subjects relating to the adjustment of international conditions of industrial life and labor, and particularly on subjects which are proposed to be brought before the Conference in connection with proposed international conventions. The Conference may formulate and submit either recommendations for national legislation or regulation by the respective powers, or proposed international conventions to become treaties

binding upon the respective parties. Provision is made for enforcing by economic measures any convention which shall have been ratified, but not properly carried out, by any nation. Complaints of this character may be submitted to investigation by a commission of inquiry, or by the permanent Court of International Justice of the League of Nations. Machinery is provided whereby a state which fails to carry out its obligations, or to enforce a convention which has been ratified, may be subjected to economic measures to compel it to do so. But no nation shall be asked or required by the Conference, as a result of the adoption of any recommendation or draft convention, to diminish the protection afforded by its existing legislation to the workers concerned.

The extent and scope of activities of this proposed organization is indicated by the program adopted by the Commission itself for the first meeting of the Conference, to be held in October next. It involves the application of the principle of an 8-hour day or 48-hour week, prevention of unemployment, employment of women before and after child-birth, at night, or in unhealthy processes, and the employment of children.

No. 26

LABOR (*continued*)

The Commission on International Labor Legislation besides preparing and submitting to the Peace Conference the convention or treaty described in the preceding letter also recommended for the consideration of the members of the League of Nations an extensive program for insertion in the treaty of peace separate and apart from the convention.

The program consists in the following declaration of principles which has been characterized as the Labor Bill of Rights, viz.:

1. In right and in fact the labor of a human being should not be treated as merchandise or an article of commerce.
2. Employers and workers should be allowed the right of association for all lawful purposes.
3. Every worker has a right to a wage adequate to maintain a reasonable standard of life, having regard to the civilization of his time and country.

4. Limitation of the hours of work in industry on the basis of eight hours a day or 48 hours a week, subject to an exception for countries in which climatic conditions, the imperfect development of industrial organization or other special circumstances render the industrial efficiency of the workers substantially different. The International Labor Conference will recommend a basis approximately equivalent to the above for adoption in such countries.

5. A weekly rest, including Sunday, or its equivalent, for all workers.

6. No child should be permitted to be employed in industry or commerce before the age of 14 years. In order that every child may be insured reasonable opportunities for mental and physical education between the years of 14 and 18, young persons of either sex may only be employed on work which is not harmful to their physical development and on condition that the continuation of their technical or general education is insured.

7. Equal pay should be given to women and to men for work of equal value in quantity and quality.

8. In all matters concerning their status as workers and as members of society, foreign workmen lawfully admitted to any country and their families should be insured the same treatment as the nationals of that country.

9. All states should institute a system of inspection, in which women should take part, in order to insure the enforcement of the laws and regulations for the protection of the workers.

Whether or not this general declaration shall be adopted by the powers signatory to the peace treaty, its formulation and recommendation by the International Commission indicates the extent of the program which the civilized powers of the earth are invited to adopt.<sup>1</sup> The Commission also adopted a resolution expressing the hope that as soon as possible an agreement should be arrived at between the high contracting parties with a view to endowing the

International Labor Conference, under the auspices of the League of Nations, with power to take, under conditions to be determined, resolutions possessing the force of international law.

This proposal embodies the recommendation of the Inter-allied Labor and Socialist Conferences held in London in August,

<sup>1</sup>Since this letter was written, the declaration has been incorporated into Part XIII, Section 2, of the treaty of peace between the allied and associated powers and Germany.



1917, and February, 1918. It is at variance with the general plan of the Covenant of the League of Nations, which carefully avoids any effort to erect a super-sovereignty over the nations, and confines itself to international agreements and their enforcement as the principal basis for the preservation of international peace. Fortunately, it is not embodied in the treaty, and it is improbable that the United States would accept it. The Covenant of the League of Nations carefully avoids the erection of a super-sovereignty on the nations, and preserves the character of the League as an alliance—not a confederation or union. The nature of the Labor Conference follows and should be held to the same theory.

Many of these recommendations for the improvement of labor will appeal at once to the favorable judgment of the world. How far the present unequal condition of development of the different countries composing the League of Nations will warrant the standardization of labor conditions proposed by this convention is a matter calling for careful examination. The project involves a novel effort of far-reaching consequence. In view of that novelty, it is to be regretted that the proposed convention should be made so extraordinarily difficult of amendment as is proposed. By its terms, any amendment must first be adopted by the conference by two-thirds of the votes cast by the delegates present, then ratified by the states whose representatives compose the Council of the League of Nations and finally by three-fourths of the states whose representatives compose the Assembly of the League. The plan as a whole undoubtedly will appeal to a large number of people. It will have the indorsement of organized labor in the United States, and can not fail to exercise a great influence upon the ratification of the peace covenant itself.

*No. 27*

## CONCLUSION

Article XXVI, the last in the Covenant, deals with amendments; and it is singularly free from detail. It does not prescribe any procedure whatever, but merely that amendments shall "take effect when ratified by the members of the League whose

representatives compose the Council and by a majority of the members of the League whose representatives compose the Assembly." No doubt proposed amendments would be discussed by the Council, and probably also by the Assembly, but this is not obligatory, the only essential thing being that they should be ratified by the nations themselves as stated.

Two facts about this method of amendment may be observed. One of them is that the unanimous assent is required not only of the five large states, but also of the smaller states associated with them on the Council, these last having, so long as they retain their seats on that body, all the privileges of the five large nations. The other fact to be noted is that the independent sovereignty of each member of the League is wholly preserved, because it is not bound by any amendment to which it does not freely consent, no matter how overwhelming the majority by which it is adopted. Yet the difficulty met with at The Hague, whereby a few small objectors could block a plan, is avoided by providing that a state which is unwilling to consent to an amendment duly adopted ceases to be a member of the League. It can not be a party to a Covenant that does not bind all equally, and hence it goes out. This is in accord with the general principle which runs all through the Covenant: that the members as independent sovereign states assume certain definite obligations specifically described, and further concert of action is wholly voluntary on their part.

Probably no two nations, and perhaps no two men, would have drafted the articles for a League of Nations precisely alike, and any such document must in the nature of things involve much compromise. There is abundant evidence of this in the Covenant of Paris, not least in the amendments made to meet objections raised in America, after the draft agreed upon by the representatives of 14 countries had been presented to the Peace Conference. Those objections seem to have been adequately covered by provisions whose meaning can not reasonably be doubted by anyone who believes sincerely in such a League. The principles on which the League is based are sound, and impose the least obligations consistent with the prevention of future wars. The question for a citizen of the United States is not whether the Covenant represents his views precisely, but

whether on the whole it is good or not, and whether this country had better accept it or not.

It has been argued that peace with Germany ought to have been made first, and a League of Free Nations organized afterward. But, quite apart from the fact that a League must be made at the close of this war or the one great opportunity of centuries would be lost, the treaty of peace has made clear, what shrewd observers had foreseen, that the terms of the treaty depend for their maintenance upon a League strong enough to enforce their observance. Besides the articles of the Covenant itself, the treaty of peace contains many provisions for action by the League, and this is necessary. It would otherwise be difficult to execute, for example, the plans for giving to the newly constituted states in central Europe access to the markets of the world through navigable rivers and free ports. In fact, the very existence of these new states would be in jeopardy without the moral support of such a League.

The Covenant is, therefore, an essential and integral part of the treaty of peace, not artificially, but by the very nature of the case. They can not be separated. To cut the Covenant out of the treaty is to amend it, and leave the whole peace to be negotiated over again between 32 independent nations. How long this would take, it is impossible to foresee; certainly several months, perhaps longer. During that time Germany would intrigue to bring about disagreements, and meanwhile we should still be in a state of war, so that our troops could not come home, and we could not return to the natural course of our peaceful industries and commerce. Are the amendments desired in the Covenant—mainly questions of wording—important enough to warrant the delay and the risk?

The world stands at a crisis in its history. Chastened by war, it is ready to adopt our principles of arbitration and disarmament, coupled with projects for the amelioration of the lot of mankind, if we join in a League for the purpose. Shall we do it or not? Shall we allow small things to hinder great ones? Shall we now hold back, or shall we consent?

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## CHINA, THE UNITED STATES AND THE WAR

*By*

KENNETH SCOTT LATOURETTE,

*Professor of history, Denison University*

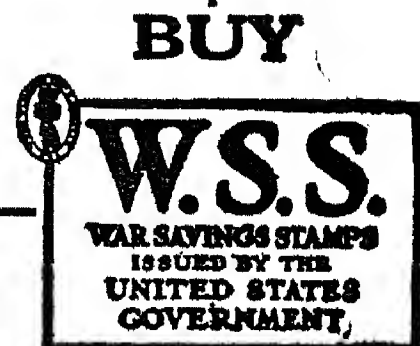
CHINO-JAPANESE NEGOTIATIONS,  
1915-1918

SHANTUNG AND ITS STATUS

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# CONTENTS

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## CHINA, THE UNITED STATES AND THE WAR.

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	PAGE
Civil strife and weakness . . . . .	168
Independence partially lost . . . . .	170
<i>Map:</i> Spheres of Influence . . . . .	171
Causes of weakness . . . . .	172
Japan's attitude toward China . . . . .	174
Japan's demands in 1915 . . . . .	176
China yielded to Japan . . . . .	178
Japan's later gains . . . . .	178
Japan's power in China . . . . .	180
Internal dissension a weakness . . . . .	181
War started new struggle . . . . .	182
Tried to satisfy military chiefs . . . . .	183
Entered war against Germany . . . . .	185
World concerned in country's future . . . . .	186
Constructive forces need aid . . . . .	188
America's later services to China . . . . .	189
United States advised joining Allies . . . . .	190
Aid republic to stand alone . . . . .	190

---

## APPENDIX

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### CHINO-JAPANESE NEGOTIATIONS, 1915-1918:

1. Japan's 21 demands . . . . .	192
2. Arrangements of May 25, 1915:	
<i>a.</i> Treaty respecting the Province of Shantung . . . . .	195
<i>b.</i> Exchange of notes respecting Shantung . . . . .	197
<i>c.</i> Treaty respecting South Manchuria and Eastern Inner Mongolia . . . . .	198
<i>d.</i> Exchange of notes respecting mines in South Manchuria . . . . .	200
<i>e.</i> Exchange of notes respecting railways and taxes in South Manchuria and Eastern Inner Mongolia . . . . .	201
<i>f.</i> Exchange of notes respecting the employment of advisers in South Manchuria . . . . .	202



	PAGE
g. Exchange of notes respecting the matter of Han-yeh-ping . . . . .	202
h. Exchange of notes respecting the Fukien question . . . . .	203
3. Chengchia Tun negotiations, 1916-1917 . . . . .	204
4. Military agreement, May 25, 1918 . . . . .	207
5. Chino-Japanese documents published in Paris:	
a. Chinese foreign minister to the Chinese delegation to the Interallied Peace Conference . . . . .	209
b. Exchange of notes respecting Manchurian railways . . . . .	210
c. Exchange of notes respecting Shantung railways . . . . .	210
d. Exchange of notes on the administration of Shantung . . . . .	211
6. Statement of Viscount Uchida, Japanese foreign minister, to the Imperial Diet, January 21, 1919 . . . . .	212
II. RUSSO-JAPANESE NEGOTIATIONS:	
1. Treaty between Russia and Japan respecting China, July 3, 1916 . . . . .	214
III. JOINT ALLIED NOTE PROTESTING AGAINST CHINA'S INACTIVITY IN THE WAR, PRESENTED OCTOBER 29, 1918 . . . . .	215
IV. POLICY OF THE UNITED STATES:	
1. Secretary of State Hay's circular note on the Open Door in China, 1899 . . . . .	217
2. Circular note to the powers co-operating in China, defining the purposes and policy of the United States . . . . .	218
V. UNDERSTANDING AMONG THE ALLIES:	
1. The British ambassador at Tokyo to the Japanese minister for foreign affairs . . . . .	219
2. The Japanese minister for foreign affairs to the British ambassador at Tokyo . . . . .	220
3. The Japanese minister for foreign affairs to the Russian and French ambassadors . . . . .	220
4. The French ambassador at Tokyo to the Japanese minister for foreign affairs . . . . .	221
5. M. Krupensky, Russian ambassador at Tokyo, to the Russian minister for foreign affairs . . . . .	222
6. Same to Same . . . . .	223
7. Same to Same . . . . .	223
VI. STATUS OF SHANTUNG:	
1. Treaty of peace with Germany ( <i>excerpt</i> ) . . . . .	224
2. Chino-German convention, March 6, 1898 . . . . .	225

# CHINA, THE UNITED STATES AND THE WAR

BY KENNETH SCOTT LATOURETTE,  
*Professor of history, Denison University.*

For the past four and a half years the eyes of America have been directed almost exclusively to Europe. We have been so engrossed with the progress of events across the Atlantic that we have had but little leisure to attend to foreign affairs elsewhere. Sooner or later, however, we must awaken to the fact that Europe is not the only storm center and that in other quarters events have been transpiring which may eventually affect us as profoundly as have the once-ignored conflicts in the Balkans. Particularly is this true of China, for here is a country whose fate must be of interest to the entire globe and whose problems tend to involve deeply every nation of importance. Because of the nature of our past relations with her, the United States is peculiarly interested in the future of China and it is highly important that Americans familiarize themselves with her history, her current problems, and our traditional policies toward her. It is especially important that we know what has been taking place while we have been engrossed with Europe and what modifications these events have made in our Far Eastern policies.

China is a land which, because of its natural resources and the numbers, history and qualities of its people, seems destined to play an important part in the future of the world. Here are soils of unsurpassed fertility which have been farmed for centuries without signs of exhaustion. Here are great deposits of coal and iron, those two minerals most essential to our industrial civilization. Antimony, copper, tin and quicksilver add to the natural wealth of the land. There are few greater undeveloped sources of raw materials. Add to these endowments a favorable climate, great

rivers and an extensive sea coast, and it is evident that not many portions of the earth's surface are better fitted by nature to be the home of a great race.

The Chinese, too, are a mighty people. Estimates vary as to their number, but there are probably at least three hundred millions of them. When one recalls that they all speak dialects of the same language, use the same written character, and have much the same physical characteristics, it is apparent that they are the largest fairly homogeneous race of mankind. They have produced a civilization which in diversity and richness will bear comparison with the best in the world and they have a continuous recorded history of between three and four thousand years. In spite of their antiquity, however, the Chinese give the impression of undeveloped strength. They are industrious, frugal, patient and intelligent, and in large sections of the Far East are noteworthy as business men. Their students make enviable records in our American universities. They seem to have before them a future fraught with portentous possibilities for good or evil, and must be reckoned with in all world affairs. They are the greatest undeveloped market in the world. Should they find themselves, they may well become one of the dominant powers in industry, commerce, politics and culture.

#### CIVIL STRIFE AND WEAKNESS

In spite of her great natural wealth and the numbers and ability of her people, China is to-day weak and disorganized, an almost chaotic group of warring provinces which is in imminent danger of sinking into anarchy and of being partitioned among the powers. Civil strife abounds. The North is pitted against the South and hostilities between the two sections have been in progress intermittently for the past seven years. The issues are not always closely defined, nor are sectional lines clearly drawn, but in general the North stands for conservatism and militarism and the South for liberalism and government by the civil authorities.

First the Manchus from their seat at Peking, "the northern capital," fought with the republicans, whose strength lay south of

the Yangtze. When the former had been deposed and the republic had been established, the more democratic South fought from time to time the autocratic tendencies of the first president, Yuan Shih K'ai, who, himself a northerner, depended for his power largely upon the military chiefs of his own section. Yuan's opportune death in June, 1916, drew the entire country together for the moment, but within a year trouble had again broken out between the leaders of the two sections and the nation has ever since been racked by war. The conflicting ambitions of selfish leaders add to the confusion. When, as has several times happened in China's long history, a strong dynasty has collapsed, internal disorder has followed and military leaders have arisen who have fought until some one of them has proved himself so much stronger than his rivals that he has been able to establish himself as emperor over a united country. There are generals who to-day are trying to emulate this example and, while they usually give lip service to republican ideals, their ambitions are as selfish and autocratic as were those of their ancient prototypes.

The restoration of public order is the more difficult in some sections because of swarms of bandits. In the weakened condition of both the central and the local governments, robbers have gathered into bands and have terrorized and dominated extensive districts. In places they have even taken over the government and have used it for their own interests.

With the administration so disorganized the finances of the country have fallen into sad confusion. Ever since 1901, when the powers loaded upon China an indemnity for the atrocities of the Boxer year, the nation has been struggling under a foreign-owned debt. To the indemnity have been added borrowings by each new government. Income seldom equals expenditures and under various specious pleas,—sometimes a reorganization of the currency, sometimes national development, sometimes to aid a new régime in re-establishing order,—the nation has gone ever more deeply into debt, mortgaging its revenues and its resources for years ahead. The burden would not prove unduly heavy were the administration of the country efficient; in comparison with the

national wealth the debt is not as large as is that of many a European nation. As it is, however, currency is in confusion, paper issues are depreciated or valueless, and the central and local governments are kept from bankruptcy and repudiation only by fear of the powers.

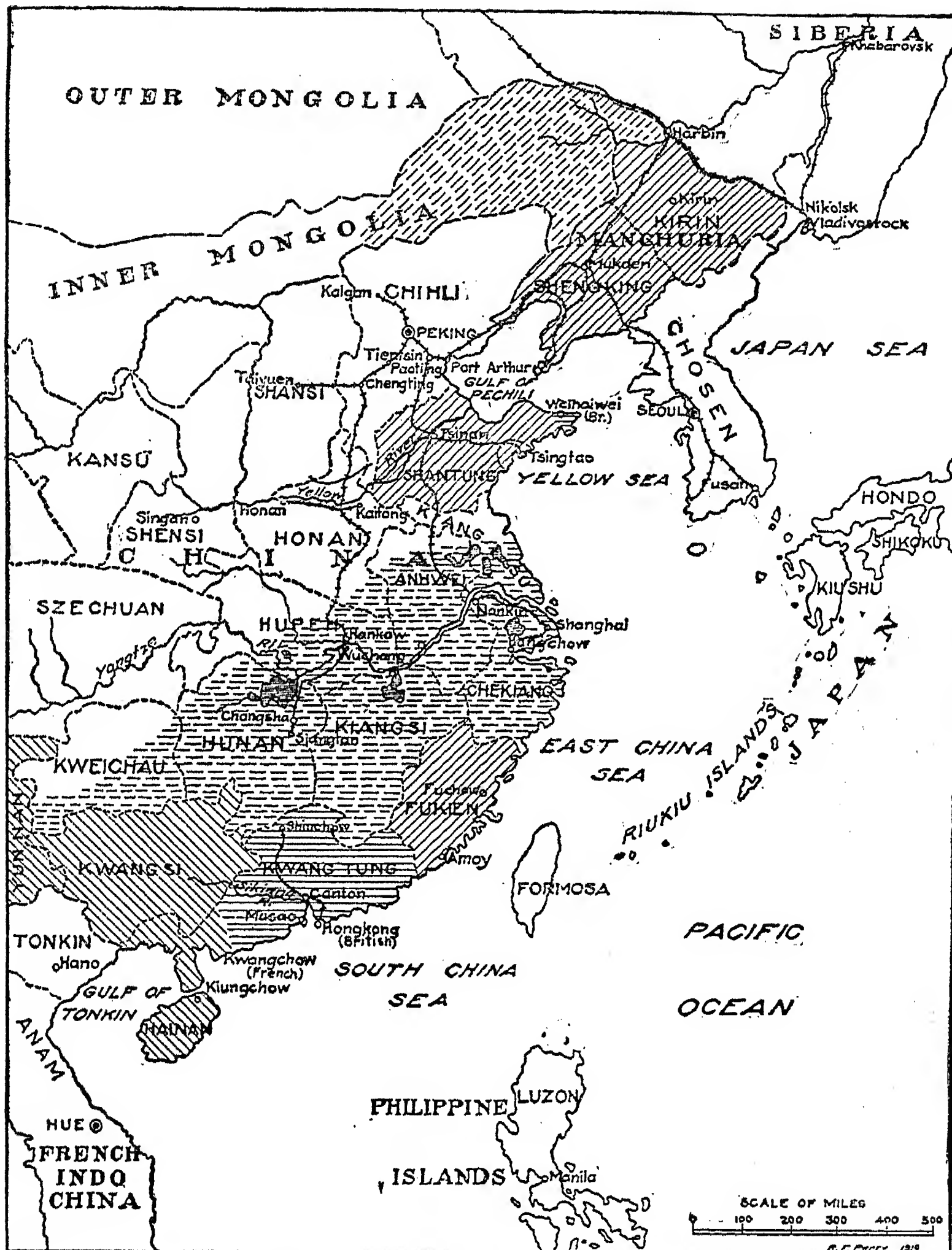
### INDEPENDENCE PARTIALLY LOST

Added to the nation's cup of bitterness is her partial loss of independence. She is not the master of her own finances. Her tariff is fixed not by act of her parliament but by treaties with the powers, and cannot be raised or lowered without their unanimous consent. These customs duties are collected largely by foreigners in the service of the Chinese Government and are pledged to the payment of debts owed abroad. The administration of the salt monopoly, which, with the foreign customs and the land tax, forms China's chief source of income, is also supervised by Westerners and mortgaged to meet foreign loans. The Chinese have borrowed extensively to build railways and develop mines and industries and each new debt has brought more supervision by outsiders.

China does not, moreover, have jurisdiction over the aliens within her borders. Exterritoriality is the rule and is bulwarked solidly by the most-favored-nation clause which insures that a privilege granted to one power will be given to every other.

Nor does China have complete control of all her territories. In most of her principal cities are concessions which are policed and governed by foreigners. Alien troops guard the legation quarter in Peking and the railway from that city to the coast. France has a long-time lease on a port in the South and a "sphere of influence" which reaches inland to include the wealthy province of Yünnan. Great Britain has possession of the island of Hong Kong, the most important commercial center of the South, and of an adjoining portion of the mainland. She also has a well-defined sphere of influence over that portion of Tibet which adjoins India, a much more shadowy one over the Yangtze valley, and a lease on Wei-hai-wei, a fortified point which partially controls the sea





approach to Peking. Russia at the time of her collapse had a sphere of influence over Outer Mongolia, and by railway concessions controlled Northern Manchuria. Germany in 1914 possessed a lease on Tsingtao, the most valuable port of the wealthy province of Shantung, and was building a railway system to connect it with a vast *hinterland*. Japan in 1914 held most of the railways of Southern Manchuria and by means of leases on important centers and concessions of various kinds had obtained a dominant position in that very rich section of the country. Since 1914 the island power has displaced Germany in Tsingtao and Shantung, and has wrested from China concessions which give her such a predominant influence in the affairs of her huge neighbor that we shall need later to speak of them in more detail.

Industrially and commercially, too, China has fallen on evil days. Her methods of manufacture have been unable to cope with those of the West and with rare exceptions her owners of capital have not yet learned to manage successfully the forms of organization which are necessary to install and conduct a modern factory system. Her teas are slowly giving way in foreign markets to those from India, and her silks to those from Japan. She has not yet substituted the joint-stock company for the guild and the partnership.

#### CAUSES OF WEAKNESS

The causes of this weakness of China are many, but the principal ones are not far to seek. First are factors arising from the impact of the West. Within the past hundred years the alien culture of the Occident has been forced upon China by the aggressive peoples of Europe and America and confusion has followed the radical and necessary readjustments. China was first scornful, then angrily resentful, then hesitant, but at last she fully resolved to adopt such of the culture of the outer barbarians as she needed to beat them at their own game. The transition has temporarily meant anarchy. If China cannot find herself, her people may sink to the permanent status of hewers of wood and drawers of water to the stronger races of the globe. If she finds herself,—and

there are many who know her who believe that ultimately she will do so,—a future of great promise is open before her. In the old days China's government was only loosely centralized, but to meet the demands of western powers it was forced to try to act as a unit. The resultant effort has accentuated the resentment of the provinces at the exercise of authority by the capital. The attempt of the liberals to substitute a democratic government of the western type for the traditional Oriental despotism of the Manchus has brought still further disorder. One feature of the impact of the West has been the cupidity of Occidental powers. To the imperialistically-minded statesman of the late nineteenth century, China was a tempting prey. Her weakness and her wealth could not be resisted, and the eagerness of each power to outwit the others and obtain for itself the exclusive control of a share of the booty, stimulated the cupidity of its rivals. Disgraceful intrigues centered at Peking and resulted in the weakening of Chinese authority and the incipient partition of the country.

A second cause of China's weakness is to be found in the selfishness of her leaders. Public office in China has for years meant an opportunity for private gain. Positions are bought and sold, salaries are small, and the successful competitors reward themselves for their expenditures by appropriations from the public funds. The honest official is the exception, for the system puts an almost irresistible pressure upon the integrity of the man who would stand against it. In the old days before the coming of the West this was not so serious a defect, but it now threatens the very existence of the state.

A third cause is the years of rule by a decadent dynasty of foreign conquerors. The Manchus, an alien people from the North, made themselves masters of China in the seventeenth century. The earlier Manchu emperors were for the most part strong men, but in later years luxury and the long enjoyment of power did their baleful work, and the line failed of vigorous scions. The Empress Dowager Tzu Hsi was the last who proved capable of holding the nation together, and after her death in 1908 neither the infant who was placed on the throne nor the regent proved

capable of guiding the country through the trying years of transition or of maintaining their own family in power.

A fourth source of China's weakness is in her population. The very weight of numbers makes the nation unwieldy. It is a huge task to guide a fifth of the human race out of ancient ruts into new paths and it is not strange if temporarily disaster seems to threaten. The masses, too, while splendid human material in the rough, are largely uneducated, provincial in their outlook, and quite incapable as yet of giving solid, intelligent support to able, patriotic leaders at Peking, even did such exist. The educated class, while influential, is comparatively small and is as yet too unprepared by its training and too engrossed in its selfish enterprises to afford the right kind of leadership for public opinion.

#### JAPAN'S ATTITUDE TOWARD CHINA

On top of China's weakness and its causes came in 1914 the Great War and with it new and important developments. In the main the war has meant to the Middle Kingdom increasingly compromised independence and growing disorder.

The added threat to independence has come through the activities of Japan. This empire, more than any other foreign power, is vitally interested in the fate of China. The arable soil of the islands is limited and the population is rapidly growing. The only immediately feasible alternatives to starvation are emigration and the development of manufacturing and commerce. For several reasons which need not here concern us, relief has been sought chiefly by the latter means. If, however, industry and trade are to relieve the pressure, the country must have two things, a convenient market and a source of raw materials. Japan herself has but little iron, and her coal beds are none too extensive. Fortunately for her, however, in China are to be found both raw materials in abundance and one of the greatest undeveloped markets in the world. From China she can obtain coal, iron, cotton, copper, antimony, and in time other raw materials, and for all of these she can make payment in manufactures. Moreover,

geographical propinquity and an historic cultural connection give to Japan a strong natural advantage in the markets of her huge neighbor. She has come to feel a sort of prior claim to China and has believed, and rightly so, that her very life depends upon keeping open the doors to that country. She has had, however, to face the menace of the Occident. She has seen the integrity of China threatened by Europe and has watched the incipient division and appropriation of her huge neighbor by nations whom she dare not meet unaided in single combat. In 1904 and 1905, assisted by the Anglo-Japanese alliance, she fought Russia and took from that power its railways, concessions and leased territories in Southern Manchuria. The war was won at fearful cost, however, and a second trial of strength with Europe might not end so favorably.

When the War of 1914 broke out, Japan saw in it her opportunity. Her support was worth much to either group of powers and she could probably ask a good price for it. Europe would, moreover, be too deeply engrossed at home to throw many obstacles in her way in China. It was Japan's chance so to bind China to herself that when the war should end, no meddling Occidental could build a wall between them. Very naturally and properly, Japan's aid was thrown to the side of the Triple Entente. She was bound to Great Britain by the Anglo-Japanese alliance and had reason to remember with anger certain German insults to her 20 years and more before. She demanded that Germany turn over to her Tsingtao, and when no answer was given, declared war. Tsingtao was captured after a short struggle and German raiders were driven off the Pacific. Japan then began to show her hand in China. Her aim, the cementing of bonds between the two which could not be dissolved by a general peace, could be achieved in the main in one of two ways. She could either win China to a voluntary, friendly alliance, or she could coerce that nation into an unwilling, sullen tutelage. It was the first path which Japan professed a desire to follow. Perhaps the effort was not entirely sincere and possibly the two peoples were lacking in the proper mutual esteem, but in any event it was the



latter path which was eventually chosen. Ill-feeling resulted which, far from drawing the two peoples more closely together in sentiment, embittered their relations. Japan was to obtain an increased formal control over China, but in so doing she was to stir up bitter hatred. First of all, Japan was not inclined to respect the niceties of Chinese neutrality. The Japanese attack on Tsingtao was made through China's territory. Towns and cities were occupied and railroads and transportation lines were seized and controlled whenever military necessity seemed to make such action advisable. China's inability to maintain her neutrality against German aggression and to preserve her full independence against foreign powers may with some show of justice be urged in extenuation, but it was unfortunate for the future relations between the peoples that Japan should deem it necessary to follow such high-handed measures. When Tsingtao had fallen, Japan did not share its occupation with her British Ally and, while disclaiming any purpose of selfish aggrandizement, showed little disposition to turn over the leased territory to its original owner.

#### JAPAN'S DEMANDS IN 1915

Then early in 1915 came the famous 21 demands. At first made in secret their terms were not for the time given out to the world and then when officially published the most startling provisions were at first withheld. When the demands became fully known, however, it was clear that were they granted the great Asiatic republic would be bound hand and foot to its doughty neighbor. They were comprised under five heads. First, China was to assent to any arrangement which Japan and Germany might make of the latter's claims in Shantung. China was, moreover, not to cede or lease to any third power any territory within or along the coast of Shantung. New ports in the province were to be opened to trade and additional railway concessions were to be granted Japan. Second, in South Manchuria and Eastern Mongolia railway leases already held by Japan were to be extended to 99 instead of 25 years. Japan was to be consulted before special

privileges were given other foreigners and her subjects were to be accorded advantages of residence and landholding which were given to aliens nowhere else within the empire. Southern Manchuria and the adjoining districts of Mongolia were thus to be bound more tightly to Japan than ever before. Third, when the opportune time arrived the Han-yeh-ping iron works at Hanyang were to be made a joint enterprise of the Chinese and Japanese, the former were not to sell their rights in it to another power, and the company's permission was to be obtained before concessions could be made for mines in the neighborhood of bodies of ore or coal owned by the company. The Han-yeh-ping enterprise is in the heart of China and is by far the most important producing source of iron and steel in the Republic. Japan hoped by controlling it to insure to herself a sufficient supply of the metal, for she stands sorely in need of it if she is to become a great industrial and shipping power. Fourth, without the consent of Japan, China was not to alienate either by concession or lease any portion of her coast to any third power. This would, of course, insure the recognition of Tokyo's veto on any suggested partition of the Middle Kingdom. Fifth, China was to employ Japanese advisers in her financial, military and political affairs. The islanders were to join in the administration of the police departments of important Chinese cities and were to supply 50 per cent. or more of the munitions used by China's armies. The Japanese might build and own hospitals, churches and schools in China and propagate religious ideas. Important railway concessions were to be granted in the Yangtze valley. In the province of Fukien, opposite Formosa, not only were the Japanese to be permitted to work mines, build railways and construct harbor works, but they were to be consulted before capital could be borrowed from any other country to carry out such projects. It was evident that were this fifth group granted China would become virtually a protectorate of Japan.<sup>1</sup>

<sup>1</sup> For the texts of the demands and the settlement, see Appendix I, pages 193-205.

## CHINA YIELDED TO JAPAN

When the demands became public property all China seethed with indignation. That the islanders, who in centuries past had derived most of their culture from China and upon whom the Chinese had looked as barbarians, should dare to make such proposals was cause for intense anger. The rage of the country was no less fierce because of the shameful knowledge that Peking was quite impotent to offer armed opposition. Negotiations were perforce entered into and resulted in China's assent to the first four groups. The fifth group was not accepted, but neither was it formally rejected. It was simply put aside for further discussion, a discussion which has never been publicly renewed.

With this diplomatic victory Japan seemed for a time to rest content. In 1916, however, rough usage of Japanese in Western Manchuria gave Tokyo an opportunity to make demands for the still further control of that region. Peking again could only protest, but Japan eventually yielded all but the minimum that was necessary to preserve her prestige.<sup>1</sup> That same year saw Japan enter into a fresh agreement with her former enemy, Russia, by which the two powers agreed not to enter into any alliance with a third power which should be directed against the other and promised to consult in case there arose a menace to the special interests of either in the Far East.<sup>2</sup> This tended to strengthen the ties that bound Japan to the Entente and was a clear indication that for at least the duration of the war Japan's Allies would not seriously obstruct her activities in China.

## JAPAN'S LATER GAINS

In 1917 Japan again showed her hand in asserting that a note of special advice which the United States sent to Peking should first have been viséed by Tokyo. America did not grant her contention, but in November, 1917, in the Lansing-Ishii agreement, Japan, while reaffirming her purpose to stand for the territorial in-

<sup>1</sup> For essential texts, see Appendix I, pages 205-208.

<sup>2</sup> For the text of the agreement, see Appendix II, pages 215-216.

tegrity and independence of China and the open door, obtained from Washington recognition that she had "special interests" in her huge neighbor.<sup>1</sup> Japan, moreover, by her protests effectively quashed an American railway project which would have competed with the former German lines which she controlled in Shantung and thus won additional recognition of her power in that province. Japanese trade with China steadily increased during the war, when Occidental goods were so largely shut out, and she has been investing capital in Chinese factories.

During 1917 and 1918 the Peking authorities borrowed extensively from Japanese bankers and the latter have not neglected to obtain good security in concessions and mortgages on resources and revenues of the type so familiar to foreigners who loan money to China.

In the spring of 1917 the Chinese public was alarmed by rumors that fresh concessions were being made to Tokyo by the Peking authorities. For some time these reports seemed to die down, but early in 1918 the Chinese press began again to assert that the party in control at the capital was selling the country to Japan on terms which were even more unfavorable to China than the fifth group of the 21 demands. In May, 1918, official confirmation was given to the report that an agreement between the two countries had been reached, but when a few days later the full texts were published<sup>2</sup> they were seen to involve nothing more than military co-operation for meeting the disorder which the break-up of Russia threatened along the northern Chinese borders. From time to time rumor insists that there are secret agreements which have never been published. A few of these,<sup>3</sup> particularly arrangements in regard to railways in Shantung and Manchuria and the administration of the former province, have recently been made public, but no conclusive evidence of further understandings has yet been given to the world. In her efforts to allay the unrest in Eastern

<sup>1</sup> For text of the Lansing-Ishii agreement see Payson Jackson Treat, *Japan, America and the Great War (A League of Nations, I, No. 8)*, 456-462.

<sup>2</sup> For text see Appendix I, pages 208-210.

<sup>3</sup> For texts see Appendix I, pages 210-213.

Siberia, however, Japan has in part substituted her control for that of Russia in the sections of Manchuria which were left to the latter power by the treaty of Portsmouth.

### JAPAN'S POWER IN CHINA

The fact of Japan's growing power over China cannot be gainsaid. Her influence is now, indeed, predominant at Peking. However, she has thus far failed to arouse any sympathetic support among the Chinese people. If there is a pro-Japanese party in China it must work under cover and it is tied to Tokyo only by the hope of selfish advantage. By the great mass of the Chinese, both educated and uneducated, the islanders are cordially detested. The Tokyo authorities may have coerced Peking into concessions but in doing so they have aroused the bitter and almost unanimous resentment of the Chinese. The voluntary alliance on which alone mutually beneficial relations can be permanently established seems even further away than in 1914. The Chinese hate and fear the Japanese and the Japanese despise the Chinese and look with cupidity upon the great areas which the latter are unable to protect against internal and external enemies. In all discussion of Far Eastern affairs, however, it is well to remember the bitter and often utterly unjust anti-Japanese prejudice of Americans and Chinese during the past few years, the evil example set Japan by European nations in past years, the fearful consequences to Japan were China to be closed against her by the West, and the fact that there are moderates as well as extremists in Japan.

The tension between Japan and China has only been heightened by the proceedings at the conference in Paris. The Chinese delegates have asked that Tsingtao be given back to China and that concessions which China made to Japan in 1915 be canceled. These, it is claimed, were obtained under duress, and are contrary to the American 14 points. Peking has openly supported its delegates in their position and Japan has expressed indignation and an unwillingness to yield. Late in April, 1919, the news was given to the world that Great Britain, France, Russia and Italy



had in February, 1917, formally assured Japan that at the peace conference they would support her claims to the former German possessions in Shantung. What professes to be the text of the notes between France, Great Britain and Japan was published in full, and the contents of Italy's and Russia's communications were summarized. Great Britain's reward was to be the German islands south of the equator, and France's, the promise of Japanese support in inducing China to break with Germany.<sup>1</sup>

### INTERNAL DISSENSION A WEAKNESS

The most important factor in giving Japan her opportunity and her cause for interference in China as well as the source of much weakness and anarchy has been the dissensions within that unhappy land, dissensions which the European war has accentuated. When in 1914 the storm broke upon the world, Yuan Shih K'ai was president. He had in 1913 dismissed Parliament with its obstructionist southern democrats, and had ruled through military chiefs (*chang-chuns* and *tu-chuns*) and a provisional government made up largely of northern conservatives. In 1915 a movement was engineered by interested parties to restore the empire and place Yuan on the throne. To this agitation the President gave assistance and in December of that year the change was announced. Bitter opposition to the revived monarchy developed in the Southwest and South, however, and in March, 1916, Yuan weakened and announced that the republic would be continued. This *volte face* did not satisfy the radicals and Yuan's resignation and punishment were demanded. Province after province was insisting on its independence of the Yuan-controlled Peking, when, at an opportune moment in June, 1916, the President died. The vice president, Li Yuan Hung, automatically became the head of the state. He was a man of honest intentions and was acceptable on the whole to both the radical and conservative factions, but he was later to prove himself incapable of the vigorous and decisive action which

<sup>1</sup> For texts see Appendix V, pages 220-224.

was required of one in his position. Feng Kuo Chang, a former henchman of Yuan Shih K'ai, but not entirely unfavorable to the liberals, was elected vice-president. Li inherited from Yuan a cabinet and a northern conservative premier, Tuan Chi Jui. The Parliament which Yuan Shih K'ai had in 1913 first purged and then dismissed reconvened and began serious work on the draft of a permanent constitution.

### WAR STARTED NEW STRUGGLE

For a time president, cabinet and parliament managed to live in harmony, and the republic seemed to have brighter prospects than at any time since its inception. The breach between America and Germany, however, started a train of events which was to renew the factional struggle on an unprecedentedly extensive scale. When in February, 1917, the United States severed diplomatic relations with Germany she sent notes to the various neutral states suggesting that they follow her example.

So far during the war China had, if anything, been mildly pro-German. Her resentment toward Japan, who was one of the Allies, the propaganda of German residents, and the admiration and fear of her military leaders for the great Teutonic power had on the whole inclined her toward the side of the Central Powers. China regarded the United States, however, as her best friend and any word from her would carry weight. Some of her more progressive leaders, moreover, sympathized with the dominant aims of the Entente, especially as the issues of the struggle came to be defined by President Wilson. Then, too, it was felt that China might expect some concessions from the Allies and by siding with them obtain a voice in the peace conference. Aided by these various considerations and the tactful diplomacy of the American minister, Dr. Reinsch, the American note to neutral powers led Peking to dispatch a protest to Berlin. On March 14, 1917, in spite of the conciliatory attitude of the Germans, diplomatic relations between the two countries were severed and when in April the United States declared war on Germany, China was inclined

to follow her example. President, premier and parliament were all probably in favor of hostilities and the premier held a conference of the military governors of the provinces to discuss the advisability of China's entering the struggle. The decision was for war and as a result the cabinet drafted the necessary bill and on May 7 presented it to parliament, with the recommendation that that body pass it. Parliament was ready for war, but were it to ratify the measure presented by the cabinet and the premier, it might seem to be playing into the latter's hands. There was, accordingly, some hesitation, although a favorable vote was reasonably certain. On May 10, however, a mob of the baser elements of the capital gathered outside the buildings where parliament was sitting and tried to intimidate that body into declaring war. Parliament took fright at what it deemed attempted coercion by the premier and not only failed to pass the bill but raised a storm of criticism against Tuan for the alleged use of mob violence. Under the stress of this criticism most of the cabinet resigned, and parliament, postponing the war question, began to demand that the premier retire or be dismissed, for they said that to declare war without a well-organized cabinet would be to court disaster.

#### TRIED TO SATISFY MILITARY CHIEFS

The military chiefs of the North now took a hand in the fray and petitioned the president to dissolve parliament. This President Li declined to do, but on May 23 he dismissed Tuan Chi Jui and appointed the liberal, Wu Ting Fang, as acting premier. Upon this the northern military chiefs redoubled their outcry and threatened the secession of their provinces. One general actually did declare the independence of his province, Anhui. The president endeavored to obtain a premier who would be acceptable to both the military party and parliament but failed of success, and, weakening, called on Chang Hsun to come to Peking and act as an official adviser in the existing crisis. Chang Hsun, the *tuchun* (military governor) of Anhui, was a notorious general of the old school who maintained a semi-bandit army astride the railway

from Tientsin to the Yangtze. He responded by coming as far as Tientsin and then, after conference with Tuan Chi Jui and other military leaders, urged the president to dissolve parliament. This Li at first declined to do, but on further threats from the military leaders and Chang Hsun weakly complied with their demand (June 13). The act not only meant a violation of the constitution but showed the president to be unworthy of his high office. Chang Hsun now came to Peking with his cohorts. Elated with the success that had attended his advice to the president and irritated by the delay in reorganizing a cabinet, on July 1 he executed a *coup d'état*, and electrified the world by announcing the restoration of the Manchu empire. President Li now brought further contumely on himself. He resigned in favor of the vice-president, Feng Kuo Chang, appointed Tuan Chi Jui premier and, while appealing to the country to stand by the republic, fled for refuge to the Japanese legation. The northern military chiefs, however, were not minded to acknowledge the Manchus, and under Tuan Chi Jui quickly defeated Chang Hsun and drove him for refuge to the Dutch legation.

The republic was now restored, but Li Yuan Hung refused to return to the presidential chair which he had left with such ignominy and Feng Kuo Chang became acting president. Moreover, Tuan Chi Jui and the northern military party were now in control of Peking and while Feng Kuo Chang had not favored the dismissal of Parliament he was not looked upon with favor by the South. Hostilities began between the adherents of the dismissed parliament, with their headquarters at Canton, and the northern military party. Into the details of the struggle we need not enter. It is sufficient to say that hostilities have been in progress ever since. In the main the provinces south of the Yangtze have stood by parliament and those to the north of that river have supported Peking. Hsu Shih Chang, a northern militarist, was elected permanent president in the autumn of 1918, by a parliament which the south refused to recognize and, although Premier Tuan resigned, the two sections have seemed in some respects to be almost as far apart as ever. The Southerners claim that the issue is one

between democracy and militarism, but whatever the ideals of the two parties, neither group has been able to master the other and great sections of the country have been drifting rapidly toward anarchy.

The end of the war in Europe and the fear of Occidental intervention have helped to allay the civil war, however. A peace commission representing both the North and the South has met in Shanghai, and while it has not achieved its object, the situation is by no means hopeless. Indeed, a representative of the Southerners, Hon. C. T. Wang, who was in the United States to present to this Government the claims of his party, was appointed by Peking to serve on the Chinese delegation at Paris. As a result a commission speaking for all China is joining in the deliberations of the Peace Conference.

#### ENTERED WAR AGAINST GERMANY

In the excitement of civil strife the military party did not forget that desire for war with Germany which had originally precipitated the crisis. When once the northern republicans were again well in the saddle at Peking the question was reopened and Premier Tuan engineered a declaration of war<sup>1</sup> on the Central Powers which was promulgated on August 14, 1917. In this declaration parliament, of course, could not join, although the majority of the southern leaders were in theory in favor of war. Germany chose to regard the act as illegal, but the Chinese had no doubt that they were in the struggle. China could not, of course, give the Allies much more help than she was already rendering them. Chinese coolies by the tens of thousands had been recruited by the Allies in North China and sent as laborers to France to work behind the front-line trenches. China might contribute raw materials, and it was just possible that an effective military

<sup>1</sup> On this incident see "The First Time in Five Thousand Years" by Samuel G. Blythe, *Saturday Evening Post*, April 28, 1917. The article is a first-hand account of how "half a dozen Americans, headed by Paul S. Reinsch, the American minister to China, and assisted by two Australians of exceptional ability" secured the Chinese declaration of war. Mr. Blythe was one of the Americans.



force could be organized to aid in the restoration of order in Siberia.

The Peking leaders, however, expected advantage to accrue to China in other ways. They could, for one thing, cancel the balance of the Boxer indemnity due to the Central Powers. To enable them to participate actively in the war, the Allies permitted them to postpone for a time the payment of the Boxer indemnity instalments due them and agreed to discuss the upward revision of the customs duties to an effective five per cent. The effect of both measures would be the increase of funds available for an active prosecution of the war. The Chinese by becoming belligerents would, too, be entitled to representation at the Peace Conference and so would have an active voice in such deliberations of that gathering as concerned their future. They also hoped, but vainly, to obtain a reduction or an entire withdrawal of the foreign garrisons at Peking and on the Peking to Tientsin railway. The civil war and the unruliness and selfish designs of military chiefs and rulers prevented the country from taking any effective part even in Siberian affairs, and the Allies had occasion in the autumn of 1918 to complain to Peking that German intrigue was still in progress, that alien enemies were left at large, and that funds released by the suspension of payments on the indemnity were being diverted to other purposes than winning the war.<sup>1</sup> There is but little doubt, indeed, but that there was in progress at Peking a wasteful carnival of graft. China's official part in winning the war was a fiasco.

#### WORLD CONCERNED IN COUNTRY'S FUTURE

The weakness of China is of serious significance to the entire world and may involve the nations as deeply as did the disintegration of the Ottoman empire. The natural resources of the land and its potential value as a market have aroused the cupidity of Japan and the great industrial nations of the West. China is, in fact, as we have already seen, partially divided into spheres

<sup>1</sup> For text of the protest see Appendix III, pages 216-218.

of influence and concessions of various kinds which are fruitful sources of misunderstandings and jealousies. The Occident has several times been drawn into war by conditions in the country, and may well find itself much more deeply concerned in the future. The only sure hope of permanent peace is that China will achieve unity and strength and be able not only to dispense with foreign protection of aliens and their investments, but to resist successfully any efforts to obtain special concessions. If she can attain vigorous independent national life as a peace-loving democracy she may become a stabilizing and not a disturbing influence in the world's affairs.

So happy a consummation seems at times very remote or even hopeless, but there are agencies at work which give the world some ground for courage. There is a growing spirit of national unity and patriotism such as were said 50 years ago to be utterly lacking. Various reformers are at work and so progressive a man as Liang Ch'í Ch'iao is eagerly read by the large and influential younger class of students. The government schools are gradually improving, in spite of the many difficulties which confront them, and are giving some promise of training an adequate leadership. Thousands are making their way to foreign lands to imbibe the new learning at its sources and many of these return home fired with patriotic and altruistic ardor. Perhaps the majority of these will lose their vision, and in the enthusiasm and inexperience of youth even those who retain their worthier purposes will make mistakes, but those who know intimately the better elements of the newer student class can not despair of the future. There is, too, among many serious leaders, both young and old, a real moral awakening, as is seen, for example, in the rather remarkable progress and appeal of the Christian church in the past few years. The post office, the telegraph, railways and steamboats are binding the country together as never before, and a steadily improving press is helping to create what may in time be an intelligent public opinion. All these agencies may not grow strong early enough to save the country, but there are transforming influences at work which,

if allowed sufficient leeway, may well work a wholesome national regeneration.

### CONSTRUCTIVE FORCES NEED AID

It would seem to be the part of wisdom for the world to aid the constructive forces in China's national life and to preserve the territorial integrity and independence of the country until they shall have had time to do their work. To this end in the main have been directed the efforts of the United States, both as a Government and through the private activities of its citizens. We have not been entirely without blame. Our exclusion laws, while directed to a wise object, have not always been passed with a due regard for China's rights or our treaty obligations, and their enforcement has frequently been unnecessarily harsh and discourteous. We have often been guilty of gross injustice to those Chinese whom we have allowed to live in our midst, and we are not free from bigoted race prejudice.

On the whole, however, our activities have been constructive. Our citizens have through purely voluntary societies carried on an extensive missionary work in China which has had as its object no gain to ourselves, but merely the welfare of the Chinese. Churches, schools, colleges and hospitals are maintained by American Christians all over our great sister republic and are centers of light and hope. No other single force in all China is more potent for good. Americans are to be found, too, teaching in government schools. The remission of a portion of our share of the Boxer indemnity has made possible the establishment of one of the most noteworthy schools in the entire republic, Ts'ing Hua College at Peking, and the sending to educational institutions in the United States of several hundred of the ablest younger Chinese. It was an American, Anson Burlingame, who after being our minister at Peking, encouraged and headed the first Chinese mission to the Occidental powers.

## AMERICA'S LATER SERVICES TO CHINA

We have consistently stood for equal economic opportunity, or the "open door," in China, and for the territorial integrity and independence of the nation. In 1899 under Secretary Hay the open door policy was formulated, and any formal adherence which the powers have given it is largely due to the initiative of our State Department. After the Boxer outbreak of 1900 we stood firmly against any partition of the country.<sup>1</sup> We joined in the protests against the Russian advance which after 1900 threatened the loss of Manchuria and our financiers assisted Japan when she restrained by force the aggression of the Tsar's Government. After the Russo-Japanese War we proposed to eliminate the concessions and the special spheres of influence in Manchuria and so to remove the causes of future disputes and the threat to Chinese independence by neutralizing the railroads of that district.<sup>2</sup> An international financial group was to loan China the money to buy back the Manchurian railways and to build from time to time such new ones as might be needed, and an international commission was to supervise their administration. Japan and Russia were afraid of the plan and thwarted it, but its purpose seems to have been altruistic. In 1912 Americans joined in an international syndicate which was to obtain a monopoly on all future loans to China. Their object was the joint administration of China's finances to prevent single nations from wringing from her special concessions as the price of aid and to assist her in getting on her feet as soon as possible. It was because President Wilson feared that this project might hamper too seriously China's efforts at independence that in 1913 the support of our Government and in consequence that of our financiers was withdrawn.<sup>3</sup>

After China had granted to Japan the first four groups of the 21 demands, the United States supported Chinese independence

<sup>1</sup> For texts see Appendix IV, pages 218-220.

<sup>2</sup> On the negotiations see Foreign Relations of the United States, 1910, 231-269.

<sup>3</sup> The statement of President Wilson of March 19, 1913, and the respondent statement of the American financiers are printed in the *American Journal of International Law*, VII, 338-341.

by notifying Peking that we could not recognize any agreement which would impair the treaty rights of our citizens in China, the political or territorial integrity of China, or the open door.

#### UNITED STATES ADVISED JOINING ALLIES

China broke with the Central powers and later declared war against them and their aggressive imperialism largely because of American influence. When the question of entering the war seemed about to plunge the nation into civil strife the United States advised China that it was more to the interests of the peace of the world that she preserve her internal unity than that she join with the Allies. In the autumn of 1917 we did, indeed, by the Lansing-Ishii agreement acknowledge Japan's special interests in China, but that was simply a recognition of a geographical fact, and in the same interchange of notes Japan renewed the assurances of her purpose to respect the territorial sovereignty of China and the "open door" into that country, assurances which she had also emphatically given in the Root-Takahira understanding of 1908.

After the announcement of the Lansing-Ishii agreement China's first reaction was one of intense disappointment. She felt that her one remaining friend among the powers had deserted her, and that the betrayal was all the more galling because she had entered the war largely as a result of our influence. She resented, too, the conclusion without her consent of an agreement which intimately concerned her. As time has passed, however, it has become evident that the United States meant to concede nothing to Japan which nature has not given the latter, and that she at the same time obtained a fresh promise to respect Chinese independence and the open door. It is possible, indeed, that by that act Washington insured the continued co-operation of Tokyo with the Allies.

#### AID REPUBLIC TO STAND ALONE

From the above brief and necessarily inadequate rehearsal of our relations with China it becomes evident that our traditional



policy has been one of friendly, and at times almost quixotic, effort to preserve the independence and the integrity of China and to aid the best elements of her population in their attempts to achieve national regeneration. It is apparent, too, that some such policy is the only possible hope of saving the nation from its own weakness and of preventing that weakness from becoming a menace to the entire world. Either China must be the prey of rival and conflicting ambitions of the powers and the possible cause of another world war, or some sort of international agreement must provide for the joint supervision of her foreign policies and her finances, both public and semi-public, and the maintenance of equal opportunity for access to her markets and stores of raw materials. It may be that a permanent international commission will be necessary.<sup>1</sup> It is certain that the League of Nations will find in China one of its first and most serious problems. It is also certain that if we in America are to play our due part in saving our sister republic we must prepare for it by a thorough education in Far Eastern problems and an unfaltering resolution to act with catholicity of spirit and self-restraint. If we lend our ears to partisan propaganda or if we enter on a program of selfish commercial exploitation our opportunity for usefulness is gone. The first would balk disinterested justice and the second would deservedly arouse the enmity of Japan and the other powers that have special interests in China.

<sup>1</sup> On February 12, 1919, announcement was made at Washington of a commission representing Japan, the United States and the other Allies, for the control of the Russian railways in Siberia and China. This, which in some respects resembles the Knox plan for the neutralization of Manchurian railways, may furnish a useful precedent for international supervision of disordered and disputed railways and mines in China.

## I. CHINO-JAPANESE NEGOTIATIONS, 1915-1918.

N. B.—Printed below are the original demands of Japan and the documents agreed upon between the two states on May 25, 1915. The texts are furnished with cross references to indicate which of the demands were finally assented to by China. The demands not so realized may be considered as representing Japan's unfulfilled policy toward China at that time. The 24 Japanese demands of April 26, 1915, were more nearly the basis of the agreements of the following May; they were formulated as the result of China's publishing the original 21 demands, and therefore do not throw as much light on Japan's intentions as their predecessors. The documents eventually signed received the assent of China after a Japanese ultimatum of May 7, 1915, in which Japan offered the "advice and hope that the Chinese Government, upon this advice, will give a satisfactory reply by 6 o'clock P.M. on the 9th day of May. It is hereby declared that if no satisfactory reply is received before or at the specified time, the Imperial Government will take steps they may deem necessary."

### I. JAPAN'S 21 DEMANDS, HANDED TO THE PRESIDENT, YUAN SHIH K'AI, BY MR. HIOKI, THE JAPANESE MINISTER, JANUARY 18, 1915.<sup>1</sup>

The Japanese Government and the Chinese Government being desirous of maintaining the general peace in Eastern Asia and further strengthening the friendly relations and good neighborhood existing between the two nations agree to the following articles:

Art. 1. The Chinese Government engages to give full assent to all matters upon which the Japanese Government may hereafter agree with the German Government relating to the disposition of all rights, interests and concessions, which Germany by virtue of treaties or otherwise, possesses in relation to the province of Shantung. [Shantung treaty, Art. 1.]

Art. 2. The Chinese Government engages that within the province of

<sup>1</sup> China's Official History of the Recent Sino-Japanese Treaties, 18-21.

Shantung and along its coast, no territory or island will be ceded or leased to a third power under any pretext. [Exchange of notes *b.*]

Art. 3. The Chinese Government consents to Japan's building a railway from Chefoo or Lungchow to join the Kiaochow-Tsinan Railway. [Cf. Shantung treaty, Art. 2.]

Art. 4. The Chinese Government engages, in the interest of trade and for the residence of foreigners, to open by herself as soon as possible certain important cities and towns in the province of Shantung as commercial ports. [Shantung treaty, Art. 3.]

What places shall be opened are to be jointly decided upon in a separate agreement.

## II.

The Japanese Government and the Chinese Government, since the Chinese Government has always acknowledged the special position enjoyed by Japan in South Manchuria and Eastern Inner Mongolia, agree to the following articles:

Art. 1. The two contracting parties mutually agree that the term of lease of Port Arthur and Dalny and the term of lease of the South Manchurian Railway and the Antung-Mukden Railway shall be extended to the period of 99 years. [South Manchuria treaty, Art. 1.]

Art. 2. Japanese subjects in South Manchuria and Eastern Inner Mongolia shall have the right to lease or own land required either for erecting suitable buildings for trade and manufacture or for farming. [Cf. South Manchuria treaty, Art. 2.]

Art. 3. Japanese subjects shall be free to reside and travel in South Manchuria and Eastern Inner Mongolia and to engage in business and in manufacture of any kind whatsoever. [South Manchuria treaty, Art. 2.]

Art. 4. The Chinese Government agrees to grant to Japanese subjects the right of opening the mines in South Manchuria and Eastern Mongolia. As regards what mines are to be opened, they shall be decided upon jointly. [Cf. Exchange of notes *d.*]

Art. 5. The Chinese Government agrees that in respect of the [two] cases mentioned herein below the Japanese Government's consent shall be first obtained before action is taken:

*a.* Whenever permission is granted to the subject of a third power to build a railway or to make a loan with a third power for the purpose of building a railway in South Manchuria and Eastern Inner Mongolia.

*b.* Whenever a loan is to be made with a third power pledging the

local taxes of South Manchuria and Eastern Inner Mongolia as security. [Cf. Exchange of notes *e*.]

Art. 6. The Chinese Government agrees that if the Chinese Government employs political, financial or military advisers or instructors in South Manchuria and Eastern Mongolia, the Japanese Government shall first be consulted. [Cf. Exchange of notes *f*.]

Art. 7. The Chinese Government agrees that the control and management of the Kirin-Changchun Railway shall be handed over to the Japanese Government for a term of 99 years dating from the signing of this agreement. [Cf. Exchange of notes *a*, September 24, 1918.]

### III.

The Japanese Government and the Chinese Government, seeing that Japanese financiers and the Han-yeh-ping Company have close relations with each other at present and desiring that the common interests of the two nations shall be advanced, agree to the following articles:

Art. 1. The two contracting parties mutually agree that when the opportune moment arrives the Han-yeh-ping Company shall be made a joint concern of the two nations and they further agree that, without the previous consent of Japan, China shall not by her own act dispose of the rights and property of whatsoever nature of the said company nor cause the said company to dispose freely of the same. [Cf. Exchange of notes *g*.]

Art. 2. The Chinese Government agrees that all mines in the neighborhood of those owned by the Han-yeh-ping Company shall not be permitted, without the consent of the said company, to be worked by other persons outside of the said company; and further agrees that if it is desired to carry out any undertaking which, it is apprehended, may directly or indirectly affect the interests of the said company, the consent of the said company shall first be obtained. [Cf. Exchange of notes *g*.]

### IV.

The Japanese Government and the Chinese Government with the object of effectively preserving the territorial integrity of China agree to the following special article:

The Chinese Government engages not to cede or lease to a third power any harbor or bay or island along the coast of China. [Cf. Exchange of notes *b*.]

## V.

Art. 1. The Chinese Central Government shall employ influential Japanese as advisers in political, financial and military affairs.

Art. 2. Japanese hospitals, churches and schools in the interior of China shall be granted the right of owning land.

Art. 3. Inasmuch as the Japanese Government and the Chinese Government have had many cases of dispute between Japanese and Chinese police which caused no little misunderstanding, it is for this reason necessary that the police departments of important places (in China) shall be jointly administered by Japanese and Chinese or that the police departments of these places shall employ numerous Japanese, so that they may at the same time help to plan for the improvement of the Chinese police service.

Art. 4. China shall purchase from Japan a fixed amount of munitions of war (say 50% or more of what is needed by the Chinese Government), or there shall be established in China a Sino-Japanese jointly worked arsenal. Japanese technical experts are to be employed and Japanese material to be purchased.

Art. 5. China agrees to grant to Japan the right of constructing a railway connecting Wuchang with Kiukiang and Nanchang, another line between Nanchang and Hangchow, and another between Nanchang and Chaochow.

Art. 6. If China needs foreign capital to work mines, build railways and construct harbor-works (including dock-yards) in the province of Fukien, Japan shall be first consulted. [*Cf.* Exchange of notes *h.*]

Art. 7. China agrees that Japanese subjects shall have the right of missionary propaganda in China.

## 2. ARRANGEMENTS OF MAY 25, 1915.

### a. TREATY RESPECTING THE PROVINCE OF SHANTUNG.<sup>1</sup>

His Excellency the President of the Republic of China and his Majesty the Emperor of Japan, having resolved to conclude a treaty with a view to the maintenance of general peace in the Extreme East and the further strengthening of the relations of friendship and good

<sup>1</sup> China's Official History of the Recent Sino-Japanese Treaties, 43-44. A French text of the essential parts of the treaty was given out in Paris (*Le Temps*, February 28, 1919).



neighborhood now existing between the two nations, have for that purpose named as their plenipotentiaries, that is to say:

His Excellency the President of the Republic of China, Lu Tseng-tsiang, *Chung-ching*, first class Chia Ho decoration, minister of foreign affairs;

And his Majesty the Emperor of Japan, Hioki Eki, *Jushii*, second class of the Imperial Order of the Sacred Treasure, minister plenipotentiary and envoy extraordinary:

Who, after having communicated to each other their full powers and found them to be in good and due form, have agreed upon and concluded the following articles:

Art. 1. The Chinese Government agrees to give full assent to all matters upon which the Japanese Government may hereafter agree with the German Government relating to the disposition of all rights, interest and concessions which Germany, by virtue of treaties or otherwise, possesses in relation to the province of Shantung.<sup>1</sup> [Original demands, I, Art. 1.]

Art. 2. The Chinese Government agrees that as regards the railway to be built by China herself from Chefoo or Lungchow to connect with the Kiaochow-Tsinan railway, if Germany abandons the privilege of financing the Chefoo-Weihsien line, China will approach Japanese capitalists to negotiate for a loan. [Cf. Original demands, I, Art. 3.]

Art. 3. The Chinese Government agrees, in the interest of trade and for the residence of foreigners, to open by China herself as soon as

<sup>1</sup>This provision was supplemented by an exchange of notes respecting the restoration of the leased territory of Kiaochow Bay, in substance as follows:

"In the name of my Government I have the honor to make the following declaration to the Chinese Government:

"When, after the termination of the present war, the leased territory of Kiaochow Bay is completely left to the free disposal of Japan, the Japanese Government will restore the said leased territory to China under the following conditions:

"1. The whole of Kiaochow Bay to be opened as a commercial port.

"2. A concession under the exclusive jurisdiction of Japan to be established at a place designated by the Japanese Government.

"3. If the foreign powers desire it, an international concession may be established.

"4. As regards the disposal to be made of the buildings and properties of Germany and the conditions and procedure relating thereto, the Japanese Government and the Chinese Government shall arrange the matter by mutual agreement before the restoration.

"I avail, etc.,

(Signed) "HIOKI EKI."

The reply took "note of this declaration." (*Op. cit.*, 47-48; *Le Temps*, February 28, 1919.)

possible certain suitable places in the province of Shantung as commercial ports.<sup>1</sup> [Original demands, I, Art. 4, par. 1.]

Art. 4. The present treaty shall come into force on the day of its signature.

The present treaty shall be ratified by his Excellency the President of the Republic of China and his Majesty the Emperor of Japan, and the ratifications thereof shall be exchanged at Tokyo as soon as possible.

In witness whereof the respective plenipotentiaries of the high contracting parties have signed and sealed the present treaty, two copies in the Chinese language and two in Japanese.

Done at Peking this twenty-fifth day of the fifth month of the fourth year of the Republic of China, corresponding to the same day of the same month of the fourth year of Taisho.

b. EXCHANGE OF NOTES RESPECTING SHANTUNG.<sup>2</sup>

PEKING, the 25th day of the 5th month  
of the 4th year of the Republic of China.

*Monsieur le Ministre,*

In the name of the Chinese Government I have the honor to make the following declaration to your Government: "Within the province of Shantung or along its coast no territory or island will be leased or ceded to any foreign power under any pretext."

I avail, etc.,

(Signed) LU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

*Japanese Minister.*

[The reply took "note of this declaration."]

<sup>1</sup> An exchange of notes respecting the opening of these ports was in substance as follows:

"I have the honor to state that the places which ought to be opened as commercial ports by China herself, as provided in Art. 3 of the treaty respecting the province of Shantung signed this day, will be selected and the regulations therefor will be drawn up, by the Chinese Government itself, a decision concerning which will be made after consulting the minister of Japan.

"I avail, etc.,

(Signed) "LU TSENG-TSIANG."

The reply took note of the declaration. (*Op. cit.*, 44.)

<sup>2</sup> *Op. cit.*, 45.

c. TREATY RESPECTING SOUTH MANCHURIA AND EASTERN INNER MONGOLIA.<sup>1</sup>

His Excellency the President of the Republic of China and his Majesty the Emperor of Japan, having resolved to conclude a treaty with a view to developing their economic relations in South Manchuria and Eastern Inner Mongolia, have for that purpose named as their plenipotentiaries, that is to say:

His Excellency the President of the Republic of China, Lu Tseng-tsiang, *Chung-ching*, first class *Chia-ho* decoration, and minister of foreign affairs; and his Majesty the Emperor of Japan, Hioki Eki, *Jushii*, second class of the Imperial Order of the Sacred Treasure, minister plenipotentiary and envoy extraordinary;

Who, after having communicated to each other their full powers, and found them to be in good and due form, have agreed upon and concluded the following articles:

Art. 1. The two high contracting parties agree that the term of lease of Port Arthur and Dalny and the terms of the South Manchuria Railway and the Antung-Mukden Railway, shall be extended to 99 years.<sup>2</sup> [Original demands, II, Art. 1.]

Art. 2. Japanese subjects in South Manchuria may, by negotiation, lease<sup>3</sup> land necessary for erecting suitable buildings for trade and manu-

<sup>1</sup> *Op. cit.*, 49-50.

<sup>2</sup> An exchange of notes respecting the terms of the leases was in substance as follows:

"I have the honor to state that, respecting the provisions contained in Art. 1 of the treaty relating to South Manchuria and Eastern Inner Mongolia, signed this day, the term of lease of Port Arthur and Dalny shall expire in the 86th year of the Republic or 1997. The date for restoring the South Manchuria Railway to China shall fall due in the 91st year of the Republic or 2002. Art. 21 in the original South Manchurian Railway agreement providing that it may be redeemed by China after 36 years from the day on which the traffic is opened is hereby canceled. The term of the Antung-Mukden Railway shall expire in the 96th year of the Republic or 2007.

"I avail, etc., (Signed) "LU TSENG-TSIANG."

The reply took note of the statement. (*Op. cit.*, 51-52.)

<sup>3</sup> An exchange of notes explaining this phrase was in substance as follows:

"I have the honor to state that the term 'lease by negotiation' contained in Art. 2 of the treaty respecting South Manchuria and Eastern Inner Mongolia signed this day shall be understood to imply a long-term lease of not more than 30 years and also the possibility of its unconditional renewal.

"I avail, etc.,

(Signed) "HIOKI EKI."

The reply took "note of the same." (*Op. cit.*, 59.)

facture or for prosecuting agricultural enterprises. [Original demands, II, Art. 2, revised.]

Art. 3. Japanese subjects shall be free to reside and travel in South Manchuria and to engage in business and manufacture of any kind whatsoever. [Original demands, II, Art. 3, revised.]

Art. 4. In the event of Japanese and Chinese desiring jointly to undertake agricultural enterprises and industries incidental thereto, the Chinese Government may give its permission.

Art. 5. The Japanese subjects referred to in the preceding three articles, besides being required to register with the local authorities passports which they must procure under the existing regulations, shall also submit to the police laws and ordinances and taxations of China.<sup>1, 2</sup>

Civil and criminal cases in which the defendants are Japanese shall be tried and adjudicated by the Japanese consul; those in which the defendants are Chinese shall be tried and adjudicated by Chinese authorities. In either case an officer may be deputed to the court to attend the proceedings. But mixed civil cases between Chinese and Japanese relating to land shall be tried and adjudicated by delegates of both nations conjointly in accordance with Chinese law and local usage.

When, in future, the judicial system in the said region is completely reformed, all civil and criminal cases concerning Japanese subjects shall be tried and adjudicated entirely by Chinese law courts.

Art. 6. The Chinese Government agrees, in the interest of trade and

<sup>1</sup>The postponement of Arts. 2, 3, 4 and 5 was provided for by an exchange of notes in substance as follows:

"I have the honor to state that, inasmuch as preparations have to be made regarding Arts. 2, 3, 4 and 5 of the treaty respecting South Manchuria and Eastern Inner Mongolia signed this day, the Chinese Government proposes that the operation of the said articles be postponed for a period of three months beginning from the date of the signing of the said treaty.

"I hope your Government will agree to this proposal.

"I avail, etc.

(Signed) "LU TSENG-TSIANG."

The reply took "note of the same." (*Op. cit.*, 61.)

<sup>2</sup>An exchange of notes respecting this arrangement for police laws and ordinances and taxation was in substance as follows:

"I have the honor to state that the Chinese authorities will notify the Japanese consul of the police laws and ordinances and the taxation to which Japanese subjects shall submit according to Art. 5 of the treaty respecting South Manchuria and Eastern Inner Mongolia signed this day so as to come to an understanding with him before their enforcement.

"I avail, etc.,

(Signed) "LU TSENG-TSIANG."

The reply took "note of the same." (*Op. cit.*, 60.)

for the residence of foreigners, to open by China herself, as soon as possible, certain suitable places in Eastern Inner Mongolia as commercial ports.<sup>1</sup>

Art. 7. The Chinese Government agrees speedily to make a fundamental revision of the Kirin-Changchun railway loan-agreement, taking as a standard the provisions in railway agreements made heretofore between China and foreign financiers. [Cf. Original demands, II, Art. 7.]

When in future more advantageous terms than those in existing railway loan agreements are granted to foreign financiers in connection with railway loans, the above agreement shall again be revised in accordance with Japan's wishes.

Art. 8. All existing treaties between China and Japan relating to Manchuria shall, except where otherwise provided for by this treaty, remain in force.

Art. 9. The present treaty shall come into force on the date of its signature. The present treaty shall be ratified by his Excellency the President of the Republic of China and his Majesty the Emperor of Japan, and the ratifications thereof shall be exchanged at Tokyo as soon as possible.

In witness whereof the respective plenipotentiaries of the two high contracting parties have signed and sealed the present treaty, two copies in the Chinese language and two in Japanese.

Done at Peking this twenty-fifth day of the fifth month [May] of the fourth year of the Republic of China [1915], corresponding to the same day of the same month of the fourth year of Taisho.

#### d. EXCHANGE OF NOTES RESPECTING MINES IN SOUTH MANCHURIA.<sup>2</sup>

PEKING, the 25th day of the 5th month  
of the 4th year of the Republic of China.

*Monsieur le Ministre,*

I have the honor to state that Japanese subjects shall, as soon as possible, investigate and select mines in the mining areas in South Manchuria

<sup>1</sup> An exchange of notes respecting the opening of these ports was in substance as follows:

"I have the honor to state that the places which ought to be opened as commercial ports by China herself, as provided in Art. 6 of the treaty respecting South Manchuria and Eastern Inner Mongolia signed this day, will be selected, and the regulations therefor will be drawn up, by the Chinese Government itself, a decision concerning which will be made after consulting the minister of Japan.

"I avail, etc. (Signed) "LU TSENG-TSIANG."

The reply took "note of the same." (*Op. cit.*, 53.)

<sup>2</sup> *Op. cit.*, 54-55.



specified hereinunder, except those being prospected for or worked, and the Chinese Government will then permit them to prospect or work the same; but before the mining regulations are definitely settled, the practice at present in force shall be followed.

Fengtien.

<i>Locality</i>	<i>District</i>	<i>Mineral</i>
Niu Hsin T'ai	Pen-hsi	Coal
Tien Shih Fu Kou	"	"
Sha Sung Kang	Hai-lung	"
T'ieh Ch'ang	Tung-hua	"
Nuan Ti T'ang	Chin	"
An Shan Chan region	Liaoyang to Pen-hsi	Iron
Kirin (southern portion)		
Sha Sung Kang	Ho-lung	Coal & Iron
Kang Yao	Chi-lin (Kirin)	Coal
Chia P'i Kou	Hua-tien	Gold
	I avail, etc.,	

His Excellency,  
HIOKI EKI,

*Japanese Minister.*

(Signed) LU TSENG-TSIANG.

[The reply acknowledged "the receipt of the note."]

#### e. EXCHANGE OF NOTES RESPECTING RAILWAYS AND TAXES IN SOUTH MANCHURIA AND EASTERN INNER MONGOLIA.<sup>1</sup>

PEKING, the 25th day of the 5th month  
of the 4th year of the Republic of China.

*Monsieur le Ministre,*

In the name of my Government,

I have the honor to make the following declaration to your Government:

China will hereafter provide funds for building necessary railways in South Manchuria and Eastern Inner Mongolia; if foreign capital is required China may negotiate for a loan with Japanese capitalists first: and further, the Chinese Government, when making a loan in future on the security of the taxes in the above-mentioned places (excluding the salt and customs revenue which have already been pledged by the Chinese

<sup>1</sup> *Op. cit.*, 56-57.

Central Government) may negotiate for it with Japanese capitalists first.

I avail, etc.,

(Signed) LU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

*Japanese Minister.*

[The reply took "note of the same."]

f. EXCHANGE OF NOTES RESPECTING THE EMPLOYMENT OF ADVISERS IN SOUTH MANCHURIA.<sup>1</sup>

PEKING, the 25th day of the 5th month  
of the 4th year of the Republic of China.

*Monsieur le Ministre,*

In the name of the Chinese Government, I have the honor to make the following declaration to your Government:

"Hereafter, if foreign advisers or instructors on political, financial, military or police matters are to be employed in South Manchuria, Japanese may be employed first." I avail, etc.,

(Signed) LU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

*Japanese Minister.*

[The reply took "note of the same."]

g. EXCHANGE OF NOTES RESPECTING THE MATTER OF HAN-YEH-PING.<sup>2</sup>

PEKING, the 25th day of the 5th month  
of the 4th year of the Republic of China.

*Monsieur le Ministre,*

I have the honor to state that if in future the Han-yeh-ping Company and the Japanese capitalists agree upon co-operation, the Chinese Government, in view of the intimate relations subsisting between the Japanese capitalists and the said company, will forthwith give its permission. The Chinese Government further agrees not to confiscate the said company,

<sup>1</sup> *Op. cit.*, 58.

<sup>2</sup> *Op. cit.*, 62.

nor without the consent of the Japanese capitalists to convert it into a state enterprise, nor cause it to borrow and use foreign capital other than Japanese.

I avail, etc.,

(Signed) LU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

*Japanese Minister.*

[The reply took "note of the same."]

#### *h. EXCHANGE OF NOTES RESPECTING THE FUKIEN QUESTION.<sup>1</sup>*

PEKING, the 25th day of the 5th month  
of the 4th year of the Republic of China.

*Excellency,*

A report has reached me to the effect that the Chinese Government has the intention of permitting foreign nations to establish, on the coast of Fukien province, dock-yards, coaling stations for military use, naval bases, or to set up other military establishments; and also of borrowing foreign capital for the purpose of setting up the above-mentioned establishments.

I have the honor to request that your Excellency be good enough to give me a reply stating whether or not the Chinese Government really entertains such an intention.

I avail, etc.,

(Signed) HIOKI EKI.

His Excellency,

LU TSENG-TSIANG,

*Minister of Foreign Affairs.*

*Reply.*

PEKING, the 25th day of the 5th month  
of the 4th year of the Republic of China.

*Monsieur le Ministre,*

I have the honor to acknowledge the receipt of your Excellency's note of this day's date, which I have noted.

In reply I beg to inform you that the Chinese Government hereby declares that it has given no permission to foreign nations to construct,

<sup>1</sup> *Op. cit.*, 63.

on the coast of Fukien province, dock-yards, coaling stations for military use, naval bases, or to set up other military establishments; nor does it entertain an intention of borrowing foreign capital for the purpose of setting up the above-mentioned establishments.

I avail, etc.,

(Signed) LU TSENG-TSIANG.

His Excellency,

HIOKI EKI,

*Japanese Minister.*

### 3. CHENGCHIA TUN NEGOTIATIONS, 1916-1917.<sup>1</sup>

In August, 1916, a dispute between a Japanese merchant named Yoshimoto and a Chinese soldier of the 28th division stationed at Chengchia Tun led to a fracas between Japanese and Chinese soldiers. The Japanese soldiers had been in Chengchia Tun for over two years. They had no justification for being there. The Chinese Government had repeatedly protested against their presence.

A Japanese policeman who was informed of the dispute induced a Japanese lieutenant to lead some Japanese soldiers to the Chinese barracks to demand satisfaction. A fracas ensued in which four Chinese and 12 Japanese soldiers were killed and others wounded. The Japanese troops were reinforced and new detachments were stationed at posts on the highway between Chengchia Tun and Ssupinkai.

On September 2, the Japanese minister submitted to the Foreign Office a series of eight demands divided into two categories. Four were demands properly so-called and four desiderata.

The demands were:

1. Punishment of the general commanding the 28th division.
2. The dismissal of the officers at Chengchia Tun responsible for the occurrence, as well as the severe punishment of those who took direct part in the fracas.
3. Proclamation to be posted ordering all Chinese soldiers and civilians in South Manchuria and Eastern Inner Mongolia to refrain from any act calculated to provoke a breach of the peace with Japanese soldiers or civilians.
4. China to agree to the stationing of Japanese police officers in places in South Manchuria and Eastern Inner Mongolia where their

<sup>1</sup> *American Journal of International Law, Supplement*, XI, 112-119; reprinting from *Peking Gazette*, January 29, 1917.

presence was considered necessary for the protection of Japanese subjects. China also to agree to the engagement by the officials of South Manchuria of Japanese police advisers.

The desiderata were:

1. Chinese troops stationed in South Manchuria and Eastern Inner Mongolia to employ a certain number of Japanese military officers as advisers.

2. Chinese military cadet schools to employ a certain number of Japanese military officers as instructors.

3. The military governor of Mukden to proceed personally to Port Arthur to the Japanese military governor of Kwantung to apologize for the occurrence and to tender similar personal apologies to the Japanese consul general in Mukden.

4. Adequate compensation to be paid by China to the Japanese sufferers and to the families of those killed.

. . . . .

The negotiations ended by the Governments agreeing to embody in an exchange of notes the following five stipulations:

1. The general commanding the 28th division will be reproved.

2. Officers responsible will be punished according to law. If the law provides for severe punishment such punishment will be inflicted.

3. Proclamations will be issued enjoining Chinese soldiers and civilians in the districts where there is mixed residence to accord considerate treatment to Japanese soldiers and civilians.

4. The military governor of Mukden will send a representative to Port Arthur to convey his regret when the military governor of Kwantung and the Japanese consul general are there together.

5. Solatium of \$500 (five hundred dollars) will be given to the Japanese merchant Yoshimoto.

. . . . .

Note verbale handed by the Japanese minister to the Chinese minister of foreign affairs.

PEKING [January 5, 1917].

The statement that if the Chinese Government should employ foreign advisers on military affairs in South Manchuria, Japanese will be employed first, etc., has been made in the note dated May 25 [1915] annexed to the treaty respecting South Manchuria and Eastern Inner



Mongolia. As the employment of Japanese military advisers will facilitate mutual understanding between the military authorities of the two countries, and further as there is no doubt that this will help to prevent various troubles which may arise out of misunderstanding, the Imperial Government entertain the hope that the Chinese Government will continuously employ Japanese military advisers. However, it is not proper for the Imperial Government to insist upon this matter since it concerns the military affairs of the Chinese Government, and should, therefore, be left to the discretion of the Chinese Government.

*Reply.*

PEKING, [January 12, 1917].

The minister of foreign affairs has the honor to acknowledge the receipt of the Japanese minister's note verbale of January 5, stating that

[Japanese note repeated.]

The minister of foreign affairs has to state that there is a Japanese military adviser already engaged in the *tuchun's* Yamen at Fengtien. The note verbale is noted.

Note verbale handed by the Japanese minister to the Chinese minister of foreign affairs.

PEKING, [January 5, 1917].

The minister of foreign affairs has to state that there is a Japanese ploy a number of Japanese military officers to be instructors in military cadet schools. This is aimed at helping the training of military officers who will in the future be appointed to the various localities in Manchuria and Mongolia, and also to enlighten the spirit of friendship between China and Japan. Thus, it may be expected that unfortunate incidents like the Chengchia Tun case will not occur again and that the root of trouble may be exterminated permanently. However, it is not proper for the Imperial Government to insist upon this matter since it concerns the military affairs of the Chinese Government, and should, therefore, be left to the discretion of the Chinese Government.

*Reply.*

PEKING, [January 12, 1917].

The Chinese minister of foreign affairs has the honor to acknowledge the receipt of the Japanese minister's note verbale of January 5, stating that

[Japanese note repeated.]

The minister of foreign affairs has to state that hitherto the military cadet school has employed only officers of the national army as instructors and there is at present no intention of employing any foreigner.

#### 4. MILITARY AGREEMENT, MAY 25, 1918.

N. B.—The Chino-Japanese military agreement was signed on May 16, 1918, and a naval agreement three days later. These arrangements were the subject of an announcement in Tokyo on May 30, at which time an exchange of notes respecting them of the preceding March 25 was published. The negotiations were much discussed in the Far Eastern press on the supposition that their object was a Chino-Japanese alliance. The text printed here is said to be semi-official.<sup>1</sup>

Art. 1. In view of the penetration of enemy influence into the eastern territory of Russia, and of the likelihood of the peace of the two contracting parties being disturbed thereby, China and Japan mutually agree actively to undertake the obligations of war participation by measures designed jointly to guard against the action of the enemy.

Art. 2. The two countries shall mutually recognize and respect the equality of the other regarding position and interests in carrying out joint military measures.

Art. 3. When it is necessary to take action based on this agreement, orders will be issued by both China and Japan to their troops and people, calling on them to be frankly sincere in dealing with each other in the area of military operations; and the Chinese officials shall co-operate and assist the Japanese troops in the area involved so that there may be no hindrance to military movements. Japanese troops shall on their part respect Chinese sovereignty and shall not cause any inconvenience to the Chinese people by violating local customs and traditions.

Art. 4. Japanese troops in Chinese territory shall withdraw from China as soon as the war is ended.

Art. 5. If it be found necessary to send troops outside of Chinese territory, troops will be jointly sent by the two countries.

Art. 6. The war area and war responsibilities shall be fixed by mutual arrangement of the military authorities of the two countries as and when occasion arises in accordance with their respective military resources.

<sup>1</sup> Chino-Japanese Military Alliance by W. Reginald Wheeler, *Current History*, September, 1918, 498-502; Wheeler, *China and the World War* (New York, The Macmillan Company, 1919), 127-144.

Art. 7. In the interests of convenience, the military authorities of the two countries shall undertake the following affairs during the period necessary for the execution of joint measures:

1. The two countries shall mutually assist and facilitate each other in extending the means of communications (post and telegraph) in connection with military movements and transportation.
2. When necessary for war purposes construction operations may be carried on, and the same shall be decided, when occasion arises, by mutual consent of the chief commanders of the two countries. The said construction operations shall be removed when the war is ended.
3. The two countries shall mutually supply each other with military supplies and raw materials for the purpose of jointly guarding against the enemy. The quantity to be supplied shall be limited to the extent of not interfering with the necessary requirements of the country supplying the same.
4. Regarding questions of military sanitation in the war area, the two countries shall render mutual assistance to each other.
5. Officers directly concerned with war operations shall mutually be sent by the two countries for co-operation. If one party should ask for the assistance of technical experts, the other shall supply the same.
6. For convenience, military maps of the area of war operations will be exchanged.

Art. 8. When the Chinese Eastern Railway is used for military transportation, the provisions of the original treaty relating to the management and protection of the said line shall be respected. The method of transportation shall be decided as occasion arises.

Art. 9. Details regarding the actual performance of this agreement shall be discussed by mutual agreement of the delegates appointed by the military authorities of the two countries concerned.

Art. 10. Neither of the two countries shall disclose the contents of the agreement and its appendix,<sup>1</sup> and the same shall be treated as military secrets.

Art. 11. This agreement shall become valid when it is approved by both Governments after being signed by the military representatives of the two countries. As to the proper moment for the beginning of war

<sup>1</sup>“The details of the arrangements constituting as they do a military secret can not be made public, but they contain no provision other than those pertaining to the object already defined.”—Japanese announcement of May 30, 1918.

operations, the same shall be decided by the highest military organs of the two countries. The provisions of this agreement and the detailed steps arising therefrom shall become null and void on the day the joint war measures against the enemy end.<sup>1</sup>

Art. 12. Two copies of the Chinese and of the Japanese text of this agreement shall be drawn, and one of each shall be kept by China and Japan. The Chinese and Japanese texts shall be identical in meaning.

## 5. CHINO-JAPANESE DOCUMENTS PUBLISHED IN PARIS.

### a. CHINESE FOREIGN MINISTER TO THE CHINESE DELEGATION TO THE INTERALLIED PEACE CONFERENCE.<sup>2</sup>

PEKING, February 22, 1919.

With regard to the Chino-Japanese agreements, you took away with you copies made by the Foreign Office of all those relating to the 21 demands and the Chino-Japanese military convention. The Foreign Office has already telegraphed the text, firstly, of the Kirin forest and mines loan; secondly, the draft of the agreements for the Manchurian and Mongolian railway loans; thirdly, the draft of the agreements for the Kaomi-Soochow and Tsinan-Shuntetu railway loans; fourthly, the notes exchanged regarding the co-operative working of the Kiaochow-Tsinan railway.

<sup>1</sup> An extension of the convention signed in February, 1919, and providing for its termination on the signing of the peace treaty was officially made public in Peking and Tokyo on March 14, 1919. The main convention was officially published at the same time. (Associated Press dispatch, March 14, 1919.)

<sup>2</sup> Associated Press dispatch, February 23, 1919. According to a Washington dispatch of February 11 based on official diplomatic information, the Chinese peace delegates reported when they arrived in Paris that copies of the secret treaties between China and Japan which they were taking to Paris with them had been stolen from their baggage while they were passing through Japan. It was afterward stated, however, that Japan had instructed her delegates to disclose all the unpublished agreements between China and Japan. Baron Makino of the Japanese delegation was quoted on February 13 as denying having received such an order. The Japanese delegation, it was declared, had asked China's consent to the publication of the agreements, but the Peking Government had not yet forwarded its reply.

Documents announced by the Associated Press as to be published at Peking and Tokyo were 12 in number and were stated to include two agreements or commercial contracts between the Chinese Government and the British Marconi Company, and two with the Siemens-Carey Company of the United States regarding railways and canals.

Besides these there are no other secret agreements, nor are there secret treaties of any kind.

Please disclose all these documents to the Peace Conference as circumstances permit, and act according to your discretion.

*b.* EXCHANGE OF NOTES RESPECTING MANCHURIAN RAILWAYS.

*i.* TSUNG-HSIANG CHANG, CHINESE MINISTER TO JAPAN, TO BARON GOTO, JAPANESE MINISTER FOR FOREIGN AFFAIRS.

Tokyo, September 24, 1918.

The Chinese Government has decided to obtain loans from Japanese capitalists and proceed speedily to build railways connecting the points as below set forth. Having received authorization from my Government, I have the honor to communicate the same to your Government:

First, between Kaiyuan, Hailung and Kirin;

Second, between Changchun and Taonan; and,

Third, from a point between Taonan and Jehol to some seaport. (This line to be determined subject to future investigation.)

Should there be no objection to the above propositions, it is requested that your Government lose no time in taking the necessary steps to cause capitalists in your country to agree to enter negotiations for loans on the same. A reply to the above is awaited and will be appreciated.

*ii.* BARON GOTO TO THE CHINESE MINISTER.

Tokyo, September 24, 1918.

I have the honor to acknowledge the receipt of your Excellency's note, intimating that your Government has decided speedily to build, with loans from Japanese capitalists, railways connecting the points as set forth below: [Cites items 1, 2 and 3 in the note of the Chinese minister.]

The Imperial Government, while noting with much pleasure the communication of the Chinese Government, begs to state in reply that it will lose no time in taking necessary steps to cause Japanese capitalists to enter into negotiations for loans on the same.

*c.* EXCHANGE OF NOTES RESPECTING SHANTUNG RAILWAYS.

*i.* TSUNG-HSIANG CHANG, CHINESE MINISTER TO JAPAN, TO BARON GOTO, THE JAPANESE FOREIGN MINISTER.

Tokyo, September 24, 1918.

The Chinese Government has decided to obtain loans from Japanese capitalists and to proceed speedily to build railways connecting the points



as set forth below. Having received authorization from my Government, I have the honor herewith to communicate the same to your Government:

- One, between Tsinan and Shunteh; and,
- Two, between Kaomi and Soochow.

However, in case the two lines mentioned are deemed disadvantageous from the point of view of railway management, other suitable lines will be decided upon by consultation. Should there be no objection to the above propositions, it is requested that your Government lose no time in taking the necessary steps to cause the capitalists of your country to agree to and enter into negotiations for loans on the same. A reply to the above is awaited and will be appreciated.

ii. BARON GOTO TO THE CHINESE MINISTER.

Tokyo, September 24, 1918.

I have the honor to acknowledge the receipt of your Excellency's note of this date intimating that your Government has decided speedily to build with loans secured from Japanese capitalists railways connecting the points as below: [Cites items one and two of the note of the Chinese minister.]

The Japanese Government, while noting with much pleasure the communication of the Chinese Government, begs to state in reply that it will lose no time in taking the necessary steps to cause Japanese capitalists to enter into negotiations for loans on the same.

d. EXCHANGE OF NOTES ON THE ADMINISTRATION OF SHANTUNG.

i. BARON GOTO, JAPANESE MINISTER FOR FOREIGN AFFAIRS, TO TSUNG-HSIANG CHANG, CHINESE MINISTER TO JAPAN.

Tokyo, September 24, 1918.

I have the honor to inform you that the Imperial Government, in view of the feeling of good neighborhood existing between the two countries and in a spirit of mutual accommodation, have deemed it fitting and accordingly have decided to propose to your Government to settle various questions relating to the province of Shantung in a manner as set forth below:

First—To concentrate at Tsingtao all Japanese troops stationed along

the Tsingtao-Tsinan railway, excepting a contingent to be left at Tsinan.<sup>1</sup>

Second—The Chinese Government to provide for the guarding of the Tsingtao-Tsinan railway and to organize a police force for that purpose.

Third—The Tsingtao-Tsinan railway to contribute an appropriate sum to defraying the expenses of such police force.

Fourth—Japanese to be employed at the headquarters of the police force, the principal railway stations and the training stations of the police force.

Fifth—Chinese to be employed on the Tsingtao-Tsinan railway.

Sixth—Upon determination of ownership the Tsingtao-Tsinan railway to run as a joint Chino-Japanese undertaking.

Seventh—The civil administration now in force to be withdrawn.

In acquainting you with the above, the Japanese Government desires to be advised as to the disposition of your Government regarding the proposals.

ii. TSUNG-HSIANG CHANG TO BARON GOTO.

Tokyo, September 24, 1918.

I have the honor to acknowledge receipt of your note with contents to the following effect: [Repeats almost verbatim the contents of Baron Goto's note.]

I beg to acquaint you in reply that the Chinese Government gladly agrees to the proposals of the Japanese Government above alluded to.

# 6. STATEMENT OF VISCOUNT UCHIDA, JAPANESE FOREIGN MINISTER, TO THE IMPERIAL DIET, JANUARY 21, 1919.<sup>2</sup>

It has been a source of grave concern to us that the protracted civil strife in China has proved as disastrous to the welfare of that country

<sup>1</sup> The summary of this note given out in Paris by the Japanese Government does not entirely correspond with the text printed above. The summary of the first point, literally translated, follows:

"In his letter, the minister for foreign affairs declares with a view to regulating various questions in suspense and in a spirit of good neighborhood, Japan proposes to retire all the troops which it has in Shantung, leaving in that province only a detachment at Tsinan and concentrating all its troops at Tsingtao." (*Le Temps*, February 28, 1919.)

<sup>2</sup> London *Times*, January 23, 1919, page 9. For the similar statement of 1918, by Viscount Motono see Payson Jackson Treat, Japan, America and the Great War (*A League of Nations*, I, No. 8) 445-447. For the statement of 1917 see London *Times*, Weekly Edition, February 2, 1917, 92.

itself as it is harmful to the interest of foreign powers. We therefore tendered our friendly advice to both the contending factions on December 2, in conjunction with Great Britain, France, America and Italy. It was apprehended that any financial help given to China at this juncture might give rise to general misgiving and hamper a speedy settlement of pending differences to the serious disadvantage of China and Japan alike. Accordingly we decided to refrain from giving to China any financial assistance, either in the form of loan or in a form otherwise calculated to create the apprehension that it might foment political complications in that country. The Government cannot, however, undertake to discourage the financial and economic enterprise of their nationals so long as they are the natural and legitimate outgrowth of the special relations between the two neighboring and friendly nations.

In view of the mischievous rumors circulated abroad from time to time in regard to our policy in China, I have to say that Japan has no territorial ambitions in China, as elsewhere; neither does she contemplate any action which might militate against the development of the legitimate interest and welfare of the Chinese nation. We intend to use our best endeavors for the development of a brilliant future for China and for the promotion of the general well-being of the Chinese people. We are, therefore, particularly anxious to deal in a spirit of justice and friendliness with all questions which may come up before the Peace Conference affecting Chinese interests.

Upon the acquisition of the right of free disposal of the leased territory at Kiaochow, we would restore it to China in accordance with the terms of the notes complementary to the treaty of May 25, 1915, regarding the province of Shantung. At the same time, we have to rely in a large measure upon the rich natural resources of China in order to assure our own economic existence. I have no doubt that both the Government and the people of China, in full appreciation of their friendly and neighborly relations with Japan, would not deny us the needed cooperation in this respect. They may certainly count on our ready assistance in the realization of any legitimate aspirations conducive to the general welfare of China, not to mention the question of the financial and economic aid necessary for the security and happiness of China in general.

## II. RUSSO-JAPANESE NEGOTIATIONS.

### 1. TREATY BETWEEN RUSSIA AND JAPAN RESPECTING CHINA, JULY 3, 1916.<sup>1</sup>

[The text below is that part of the treaty as published in the Associated Press day report for December 22, 1917, for which it was translated from *Izvestia*, the official organ of the Russian Bolshevik régime.

[The treaty was negotiated for five years, with provision for automatic extension. It was signed by Sergius Sazonov, Russian foreign minister, and Viscount Motono, for Japan. A provision stipulated that "the agreement shall remain a deep secret for all except for the high contracting parties." The preamble states that it is designed to supplement the treaties of July 30, 1907, July 4, 1910 and July 8, 1912.<sup>2</sup>]

Art. I. The high contracting parties recognize that the interests of either side demand the defense of China from political domination by any third power whatsoever cherishing hostile intentions toward Russia and Japan, and, therefore, undertake, whenever circumstances necessitate, to enter into open relations based on full confidence in order conjointly to take the necessary steps to prevent the advent in China of such a state of affairs.

Art. II. In the event that, as a consequence of any measures undertaken by mutual consent by Russia and Japan on the basis of the preceding article, any third power, as foreseen by Art. I, should declare war against Russia or Japan, the other high contracting party shall, on the first demand of its ally, come to its aid. Each high contracting party binds itself not to make peace with the common enemy without obtaining the agreement of its ally.

Art. III. The conditions on which either party shall give armed as-

<sup>1</sup>The British secretary of state announced in Parliament on January 21, 1918, in reply to a question, that the treaty "was communicated to the British Government confidentially by the Japanese Government before signature." (London *Times*, January 22, 1918, page 10.)

<sup>2</sup>Treaties referred to are the convention of July 30, 1907 (British and Foreign State Papers, CI, 462); the convention of July 4, 1910 (*Ibid.*, CIII, 586; CV, 979).

sistance, and the means by which such assistance shall be expressed, shall be fixed by the respective authorities of the high contracting parties.

Art. IV. It must be especially kept in mind that neither party shall consider itself obligated in accordance with Art. II to give its ally armed assistance unless it receives guaranties from its allies to the effect that they will give it assistance to the extent necessitated by the seriousness of the possible conflict.

. . . . .

### III. JOINT ALLIED NOTE PROTESTING AGAINST CHINA'S INACTIVITY IN THE WAR, PRESENTED OCTOBER 29, 1918.<sup>1</sup>

1. After her entry into the Entente group of belligerent nations and her declaration of war against Germany and Austria-Hungary, China demanded from the Allies the postponement of the Boxer indemnity and appropriation of the surplus of the customs revenue. This was at once agreed to by the Allies in the hope that China might make good use of these funds so as to develop her industries and supply the Allies with raw materials and promote the common interests of the Allies and China. It is deeply deplored, however, that the money has been squandered in merely prolonging the civil strife. In this way the allied nations feel that their good will has not been duly appreciated by China.

2. Although the War Participation Bureau has been established for a long time, it is only such an organ in name. The army under its control is not properly organized and no portion of it has ever been actually employed in the world war. On the contrary, the troops have been used to prosecute the civil war in China.

3. Bandits are being allowed to create trouble along the Tientsin, Pukow and Lung Hai Railways, interrupting traffic and wrecking rails. As the nationals of the Allies have capital in these railways, they have thus sustained losses and suffered directly from the bandit activities.

4. In appointing Tai Chen-lin as China's representative to the papal See without first obtaining approval from the allied countries, the Chinese Government seemed to entertain a wish purposely to embarrass the Allies

<sup>1</sup> New York *Times*, December 26, 1918; The *Nation*, International Relations section, January 25, 1919, page 149. The two versions differ in detail. Variations in substance have been indicated.



and placed herself under suspicion of having been influenced by the enemy.

5. The object of exercising supervision over enemy property and closing down their establishments is to prevent the enemy from being supplied with funds for intrigues. But in dealing with the Deutsch-Asiatische Bank, the Chinese Government failed to have German property carefully investigated and strictly watched.

6. (a) All enemy organs at Tientsin are not yet closed; (b) the Chinese authorities of Chahar arbitrarily interfered with and stopped the establishment of a motor car service by the national of a certain country (America); (c) all enemy firms at Shanghai are not yet closed. Neglect on the part of the Chinese Government to carry out any of these three measures has caused heavy losses to the Allies.<sup>1</sup>

7. China's enemy trading act, although passed by the cabinet, has not yet been promulgated [*Nation*: as promulgated by the last cabinet was not carried out by China].

8. The Hotel du Nord, an establishment of purely enemy proprietorship, was closed only after repeated strong protests on the part of the Allies. This is one of the proofs that China is not heartily helping the Allies.<sup>2</sup>

9. In spite of the Allies' repeated requests to dismiss the Taoyin of Heiho, who was reported to have supplied the Bolsheviki with food-stuffs, the Chinese Government has not done so. This shows that the Chinese Government is inclined to give protection to officials who are in communication with the enemy.

10. China has not yet interned enemy subjects who are notorious for their intrigues in China.<sup>3</sup>

11. It was agreed upon between China and the Allies that lawsuits between allied and enemy subjects should be tried in courts at which the

<sup>1</sup>The *Nation* version contains the following:

"5. The movements of enemy subjects in China are not effectively scrutinized by the Chinese Government authorities, so that dangerous Germans, such as Hanneken and others, are not interned up to the present time. It is said that the recent dispute between the American Mongolian Trading Company and General Tien Chung-yu of Chahar was also mentioned in this category."

<sup>2</sup>The *Nation* specifies that the hotel "was used as headquarters of enemy subjects in North China for their unlawful conferences and activities against the allied cause."

<sup>3</sup>The *Nation* version reads:

"10. The enemy internment camps are not properly conducted, and in consequence many dangerous Germans are not interned at all. The action of the Chinese authorities in certain cases is quite unsatisfactory to the Allies."

consuls of the nations concerned should be allowed to have seats in order that justice might be assured. Now in the trial of enemy subjects arrested in Tientsin and Urga the local authorities declined to allow the allied consuls to attend the courts of justice. These cases were not publicly tried and the enemy subjects were not severely dealt with.

12. If China will speedily and completely carry out the agreements between her and the Allies in connection with her participation in the European war and also the measures stated above, and discharge faithfully her duties as an allied belligerent, she will be entitled to enjoy equal privileges with the Allies at the Peace Conference to be held after the close of the great war.

The attention of the Chinese Government is called to the various points mentioned above.

#### IV. POLICY OF THE UNITED STATES.

##### I. SECRETARY OF STATE HAY'S CIRCULAR NOTE ON THE OPEN DOOR IN CHINA, 1899.<sup>1</sup>

First. The recognition that no power will in any way interfere with any treaty port or any vested interest within any leased territory or within any so-called "sphere of interest" it may have in China.

Second. That the Chinese treaty tariff of the time being shall apply to all merchandise landed or shipped to all such ports as are within said "sphere of interest" (unless they be "free ports"), no matter to what nationality it may belong, and that duties so leviable shall be collected by the Chinese Government.

Third. That it will levy no higher harbor dues on vessels of another nationality frequenting any port in such "sphere" than shall be levied on vessels of its own nationality, and no higher railroad charges over lines built, controlled or operated within its "sphere" on merchandise belonging to citizens or subjects of other nationalities transported through such "sphere" than shall be levied on similar merchandise belonging to its non-nationals transported over equal distances.

<sup>1</sup> William M. Malloy, *Treaties, Conventions, etc., of the United States, 1776-1909*, I, 244-260, at 257.

On March 20, 1900, Secretary Hay, in instructions to London, Paris, Berlin, St. Petersburg, Rome and Tokyo, wrote:

You will please inform the Government to which you are accredited that the conditions originally attached to its acceptance—that all other powers concerned should likewise accept the proposals of the United States—having been complied with, this Government will therefore consider the assent given to it by [France, Germany, Great Britain, Italy, Japan, Russia] as final and definitive.<sup>1</sup>

2. CIRCULAR NOTE TO THE POWERS CO-OPERATING IN CHINA, DEFINING THE PURPOSES AND POLICY OF THE UNITED STATES.<sup>2</sup>

(To the United States embassies in Berlin, Paris, London, Rome and St. Petersburg, and to the United States missions in Vienna, Brussels, Madrid, Tokyo, The Hague and Lisbon.)

DEPARTMENT OF STATE,  
WASHINGTON, July 3, 1900.

In this critical posture of affairs in China it is deemed appropriate to define the attitude of the United States as far as present circumstances permit this to be done. We adhere to the policy initiated by us in 1857 of peace with the Chinese nation, of furtherance of lawful commerce, and of protection of lives and property of our citizens by all means guaranteed under extraterritorial treaty rights and by the law of nations. If wrong be done to our citizens we propose to hold the responsible authors to the uttermost accountability. We regard the condition at Peking as one of virtual anarchy, whereby power and responsibility are practically devolved upon the local provincial authorities. So long as they are not in overt collusion with rebellion and use their power to protect foreign life and property, we regard them as representing the Chinese people, with whom we seek to remain in peace and friendship. The purpose of the President is, as it has been heretofore, to act concurrently with the other powers; first, in opening up communication with Peking and rescuing the American officials, missionaries and other Americans who are in danger; secondly, in affording all possible protection everywhere in China to American life and property; thirdly, in guarding and protecting all legitimate American interests; and, fourthly, in aiding to prevent a spread of disorders to the other provinces of the Empire and

<sup>1</sup> Foreign Relations of the United States, 1900, 142.

<sup>2</sup> Foreign Relations of the United States, 1901, Appendix, 12.

a recurrence of such disasters. It is, of course, too early to forecast the means of attaining this last result; but the policy of the Government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire.

You will communicate the purport of this instruction to the minister for foreign affairs.

HAY.

## V. UNDERSTANDING AMONG THE ALLIES.<sup>1</sup>

### I. THE BRITISH AMBASSADOR AT TOKYO TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS.

BRITISH EMBASSY,  
Tokyo, February 16, 1917.

My dear Excellency: With reference to the subject of our conversation of the 27th ultimo, when your Excellency informed me of the desire of the Imperial Government to receive an assurance that on the occasion of a Peace Conference his Britannic Majesty's Government will support the claims of Japan in regard to the disposal of Germany's rights in Shantung and possessions in the islands north of the equator, I have the honor, under instructions received from his Britannic Majesty's principal secretary of state for foreign affairs, to communicate to you the following message from his Britannic Majesty's Government:

"His Britannic Majesty's Government accede with pleasure to the request of the Japanese Government for an assurance that they will support Japan's claims in regard to the disposal of Germany's rights in Shantung and possessions in the islands north of the equator on the occasion of the Peace Conference; it being understood that the Japanese Government will in the eventual peace settlement treat in the same spirit Great Britain's claims to the German islands south of the equator."

<sup>1</sup>New York *Times*, April 22, 1919. The notes were contained in a copyrighted cablegram by Charles A. Selden.

I avail myself of this opportunity, M. le Ministre, to renew to your Excellency the assurance of my highest consideration.

CONYNNGHAM GREENE,

His Britannic Majesty's Ambassador.

To his Excellency, Viscount Ichiro Motono, his Imperial Japanese Majesty's Minister for Foreign Affairs.

2. THE JAPANESE MINISTER FOR FOREIGN AFFAIRS TO THE BRITISH  
AMBASSADOR AT TOKYO.

[EXTRACT.]

FOREIGN OFFICE,  
Tokyo, February 21, 1917.

The Japanese Government is deeply appreciative of the friendly spirit in which your Government has given assurance and happy to note it as fresh proof of the close ties that unite the two allied powers. I take pleasure in stating that the Japanese Government on its part is fully prepared to support in the same spirit the claims which may be put forward at the Peace Conference by his Britannic Majesty's Government in regard to the German possessions in the islands south of the equator.

3. THE JAPANESE MINISTER FOR FOREIGN AFFAIRS TO THE RUSSIAN  
AND FRENCH AMBASSADORS.

[EXTRACT.]

FOREIGN OFFICE,  
Tokyo, February 19, 1917.

The Imperial Japanese Government has not yet formally entered into conversations with the Entente powers concerning the conditions of peace it proposes to present to Germany, because it is guided by the thought that such questions ought to be decided in concert between Japan and the said powers at the moment when the peace negotiations begin. Nevertheless, in view of recent developments in the general situation, and in view of the particular arrangements concerning peace conditions, such as arrangements relative to the disposition of the Bosphorus, Constantinople, and the Dardanelles, being already under discussion by the powers interested, the Imperial Japanese Government believes that the moment has come for it also to express its desires relative to certain conditions of peace essential to Japan and to submit them for the



consideration of the Government of the French Republic [Russian Empire].

The French [Russian] Government is thoroughly informed of all the efforts the Japanese Government has made in a general manner to accomplish its task in the present war, and particularly to guarantee for the future the peace of Oriental Asia and the security of the Japanese Empire, for which it is absolutely necessary to take from Germany its bases of political, military and economic activity in the Far East.

Under these conditions the Imperial Japanese Government proposes to demand from Germany at the time of the peace negotiations the surrender of the territorial rights and special interests Germany possessed before the war in Shantung and the islands situated north of the equator in the Pacific Ocean.

The Imperial Japanese Government confidently hopes the Government of the French Republic [Russian Empire], realizing the legitimacy of these demands, will give assurance that, her case being proved, Japan may count upon its full support on this question.

It goes without saying that reparation for damages caused to the life and property of the Japanese people by the unjustifiable attacks of the enemy, as well as other conditions of peace of a character common to all the Entente powers, are entirely outside the consideration of the present question.

#### 4. THE FRENCH AMBASSADOR AT TOKYO TO THE JAPANESE MINISTER FOR FOREIGN AFFAIRS.

[EXTRACT.]

FRENCH EMBASSY, TOKYO, March 3, 1917.

The Government of the French Republic is disposed to give the Japanese Government its accord in regulating at the time of the peace negotiations questions vital to Japan concerning Shantung and the German islands in the Pacific north of the equator. It also agrees to support the demands of the Imperial Japanese Government for the surrender of the rights Germany possessed before the war in this Chinese province and these islands.

M. Briand demands, on the other hand, that Japan give its support to obtain from China the breaking of its diplomatic relations with Germany, and that it gives this act desirable significance. The consequences of this in China should be the following:

First, handing passports to the German diplomatic agents and consuls.

Second, the obligation of all under German jurisdiction to leave Chinese territory.

Third, the internment of German ships in Chinese ports and the ultimate requisition of these ships in order to place them at the disposition of the Allies following the example of Italy and Portugal. According to the information of the French Government there are 15 German ships in Chinese ports, totaling about 40,000 tons.

Fourth, requisition of German commercial houses established in China; forfeiting the right of Germany in the concessions she possesses in certain parts of China.<sup>1</sup>

5. M. KRUPENSKY, RUSSIAN AMBASSADOR AT TOKYO, TO THE  
RUSSIAN MINISTER FOR FOREIGN AFFAIRS.<sup>2</sup>

Tokyo, February 8, 1917.

I never omit an opportunity for representing to the minister for foreign affairs the desirability, in the interests of Japan herself, of China's intervention in the war, and only last week I had a conversation with him on the subject. To-day I again pointed out to him that the present moment was particularly favorable, in view of the position taken up by the United States and the proposal made by them to the neutral powers to follow their example, and more particularly, in view of the recent speeches of the American minister at Peking. Viscount Motono replied that he would be the first to welcome a rupture between China and Germany, and would not hesitate to take steps in this direction at Peking if he were sure that the Chinese Government would go in that direction. So far, however, he had no such assurance, and he feared lest unsuccessful representations at Peking might do harm to the Allies. He promised me to sound the attitude of Peking without delay, and, in case of some hope of success, to propose to the cabinet to take a decision in the desired direction.

On the other hand, the minister pointed out the necessity for him, in view of the attitude of Japanese public opinion on the subject, as well as with a view to safeguard Japan's position at the future Peace Confer-

<sup>1</sup> In reply Japan promised compliance with the request to get China to break relations with Germany, adding that it had spared no effort in that direction from the beginning.

At Rome, the Italian minister of foreign affairs gave the Japanese ambassador assurance that Italy would offer no objections in the matter.

<sup>2</sup> Manchester *Guardian*, February 7, 1918, page 4.

ence, if China should be admitted to it, of securing the support of the allied powers to the desires of Japan in respect of Shantung and the Pacific Islands. These desires are for the succession to all the rights and privileges hitherto possessed by Germany in the Shantung province and for the acquisition of the islands to the north of the equator which are now occupied by the Japanese. Motono plainly told me that the Japanese Government would like to receive at once the promise of the Imperial [Russian] Government to support the above desires of Japan. In order to give a push to the highly important question of a break between China and Germany I regard it as very desirable that the Japanese should be given the promise they ask—this the more as, so far as can be seen here, the relations between Great Britain and Japan have of late been such as to justify a surmise that the Japanese aspirations would not meet with any objections on the part of the London cabinet.

6. SAME TO SAME.

Tokyo, March 1, 1917.

The minister for foreign affairs asked me to-day whether I had received a reply from the Imperial [Russian] Government relating to Japan's desires on the question of Shantung and the Pacific Islands, and told me that the Japanese Government would very much like to have at the earliest a promise from us on the subject.

7. SAME TO SAME.

Tokyo, March 21, 1917.

I communicated to-day to the minister for foreign affairs the contents of your high Excellency's telegram, and gave him a copy. Viscount Motono confined himself to the observation that he took note of my communication, and would report it to the council of ministers and the Emperor. The attitude of public opinion and the press here toward the revolution in Russia is, on the whole, sympathetic. It is regarded as a pledge of a successful prosecution of the war until complete victory has been obtained, and the end of the rule of the bureaucracy is welcomed. While paying due tribute to the Emperor's and the Grand Duke Michael Alexandrovich's patriotic acts of abdication, public opinion here expresses the hope that the new Government and the popular representatives to be summoned would not be inclined toward extreme decisions. The same attitude toward the events in Russia could be perceived in the few general words which I heard in this connection from the minister of foreign affairs.

## VI. STATUS OF SHANTUNG.

N. B.—Printed below are the articles of the treaty of peace with Germany relating to Shantung and the essential portions of the Chino-German convention, under which German rights are transferred to Japan. Chino-Japanese understandings respecting the provinces are in the Japanese ultimatum to Germany, August 15, 1914, and the subsequent declaration of war (see Japan, America and the Great War, 443-45, *A League of Nations*, I, No. 8), and the following documents as printed above:

Treaty and exchanges of notes respecting the province of Shantung, May 25, 1915, 196-198.

Exchanges of notes respecting railways and administration of Shantung, 211-213.

Understanding among the Allies respecting the Far East, 220-224.

I. TREATY OF PEACE WITH GERMANY, SIGNED AT PARIS, JUNE 28, 1919. PART IV, SECTION VIII.—SHANTUNG.

Art. 156. Germany renounces, in favor of Japan, all her rights, title and privileges—particularly those concerning the territory of Kiaochow, railways, mines and submarine cables—which she acquired in virtue of the treaty concluded by her with China on March 6, 1898, and of all other arrangements relative to the province of Shantung.

All German rights in the Tsingtao-Tsinanfu Railway, including its branch lines, together with its subsidiary property of all kinds, stations, shops, fixed and rolling stock, mines, plant and material for the exploitation of the mines, are and remain acquired by Japan, together with all rights and privileges attaching thereto.

The German state submarine cables from Tsingtao to Shanghai and from Tsingtao to Chefoo, with all the rights, privileges and properties attaching thereto, are similarly acquired by Japan, free and clear of all charges and encumbrances.

Art. 157. The movable and immovable property owned by the German State in the territory of Kiaochow, as well as all the rights which Germany might claim in consequence of the works or improvements made or of the expenses incurred by her, directly or indirectly, in connection with this territory, are and remain acquired by Japan, free and clear of all charges and encumbrances.

Art. 158. Germany shall hand over to Japan within three months from the coming into force of the present treaty the archives, registers, plans, title-deeds and documents of every kind, wherever they may be,

relating to the administration, whether civil, military, financial, judicial or other, of the territory of Kiaochow.

Within the same period Germany shall give particulars to Japan of all treaties, arrangements or agreements relating to rights, titles or privileges referred to in the two preceding articles.

2. CONVENTION BETWEEN THE GERMAN EMPIRE AND CHINA  
RESPECTING KIAOCHOW, SIGNED AT PEKING, MARCH 6, 1898.

The incidents connected with the mission in the prefecture of Tsao-chau-foo, in Shantung, being now closed, the imperial Chinese Government consider it advisable to give a special proof of their grateful appreciation of the friendship shown to them by Germany. The imperial German and the imperial Chinese Governments, therefore, . . . have concluded the following separate convention:

Art. I. His Majesty the Emperor of China, guided by the intention to strengthen the friendly relations between China and Germany, and at the same time to increase the military readiness of the Chinese Empire, engages, while reserving to himself all rights of sovereignty in a zone of 50 kilometers (100 Chinese *li*) surrounding the Bay of Kiaochow at high-water, to permit the free passage of German troops within this zone at any time, as also to abstain from taking any measures, or issuing any ordinances therein, without the previous consent of the German Government, and especially to place no obstacle in the way of any regulation of the water-courses which may prove to be necessary. His Majesty the Emperor of China, at the same time, reserves to himself the right to station troops within that zone, in agreement with the German Government, and to take other military measures.

Art. II. With the intention of meeting the legitimate desire of his Majesty the German Emperor, that Germany, like other powers, should hold a place on the Chinese coast for the repair and equipment of her ships, for the storage of materials and provisions for the same, and for other arrangements connected therewith, his Majesty the Emperor of China cedes to Germany on lease, provisionally for 99 years, both sides of the entrance to the Bay of Kiaochow. Germany engages to construct, at a suitable moment, on the territory thus ceded, fortifications for the protection of the buildings to be constructed there and of the entrance to the harbor.

Art. III. In order to avoid the possibility of conflicts, the imperial Chinese Government will abstain from exercising rights of sovereignty in the ceded territory during the term of the lease, and leaves the exercise of the same to Germany within [specified] limits. . . .

Art. V. Should Germany at some future time express the wish to return Kiaochow to China before the expiration of the lease, China engages to refund to Germany the expenditures she has incurred at Kiaochow, and to cede to Germany a more suitable place. . . .



## SECTIONS II AND III.

I. The Chinese Government sanctions the construction by Germany of two lines of railway in Shantung. The first will run from Kiaochow and Tsinan to the boundary of Shantung province via Weihsien, Tsinchow, Pashan, Tsechuen and Suiping. The second line will connect Kiaochow with Chinchow, whence an extension will be constructed to Tsinan through Laiwu-hsien. . . .

II. In order to carry out the above mentioned railway work a Chino-German company shall be formed, with branches at whatever places may be necessary, and in this company both German and Chinese subjects shall be at liberty to invest money if they so choose, and appoint directors for the management of the undertaking.

III. All arrangements in connection with the works specified shall be determined by a future conference of German and Chinese representatives. The Chinese Government shall afford every facility and protection and extend every welcome to representatives of the German railway company operating in Chinese territory.

Profits derived from the working of these railways shall be justly divided *pro rata* between the shareholders without regard to nationality. The object of constructing these lines is solely the development of commerce. *In inaugurating a railway system in Shantung Germany entertains no treacherous intention toward China*, and undertakes not to unlawfully seize any land in the province.

IV. The Chinese Government will allow German subjects to hold and develop mining property for a distance of 30 *li* from each side of these railways and along the whole extent of the lines. The following places where mining operations may be carried on are particularly specified along the northern railway from Kiaochow to Tsinan, Weihsien, Pa-shan-hsien and various other points; and along the southern Kiaochow-Tsinan Chinchow line, Chinchow-fu, Laiwu-hsien, etc. . . .

All German subjects engaged in such works in Chinese territory shall be properly protected and welcomed by the Chinese authorities and all profits derived shall be fairly divided between Chinese and German shareholders according to the extent of the interest they hold in the undertakings.

In trying to develop mining property in China, *Germany is actuated by no treacherous motives against this country*, but seeks alone to increase commerce and improve the relations between the two countries.

The Chinese Government binds itself in all cases where foreign assistance, in person, capital or material, may be needed for any purpose whatever within the province of Shantung, to offer the said work or supplying of materials, in the first instance to German manufacturers and merchants engaged in undertakings of the kind in question.

In case German manufacturers and merchants are not inclined to undertake the performance of such works or the furnishing of materials, China shall then be at liberty to act as she pleases.

# LEAGUE *of* NATIONS

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## Latin America and the War

By

PERCY ALVIN MARTIN

*Associate professor of history,  
Leland Stanford Jr. University*

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# CONTENTS

## LATIN AMERICA AND THE WAR

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Two Active Participants . . . . .	228
Self-preservation an Incentive . . . . .	229
Clerical Pro-Germanism . . . . .	231
<b>BRAZIL AND THE WAR . . . . .</b>	<b>233</b>
Brazilian Indignation Increased . . . . .	234
Ruy Barbosa's Eloquent Indictment . . . . .	235
Public Opinion Supported Government . . . . .	237
Precautions Against Germans . . . . .	241
Extensive War-Time Measures . . . . .	243
Added to Allied Food Supply . . . . .	244
<b>CUBA . . . . .</b>	<b>245</b>
Political Rivalries Adjourned . . . . .	247
Propaganda Neutralized . . . . .	248
<b>ARGENTINA . . . . .</b>	<b>249</b>
Reasons for Remaining at Peace . . . . .	251
Resentment Followed Disclosures . . . . .	254
<b>CHILE . . . . .</b>	<b>255</b>
Press Showed Changed Attitude . . . . .	257
<b>THE REMAINING SOUTH AMERICAN REPUBLICS . . . . .</b>	<b>258</b>
Uruguay's Remarkable Record . . . . .	259
<b>THE CARIBBEAN REPUBLICS . . . . .</b>	<b>261</b>
<b>MEXICO . . . . .</b>	<b>263</b>
<b>THE UNITED STATES AND LATIN AMERICA . . . . .</b>	<b>265</b>
<b>BIBLIOGRAPHY . . . . .</b>	<b>267</b>
<b>BOOKS ON THE LEAGUE OF NATIONS . . . . .</b>	<b>269</b>

# PUBLIC DOCUMENTS ON THE LEAGUE OF NATIONS

**Treaty of Peace with Germany.** Washington, Government Printing Office, 1919. 192 p., 23½ cm. (66th Cong., 1st sess., Sen. Doc. No. 49.)

The quarto print for the Committee on Foreign Relations is Sen. Doc. No. 51.

The reported treaty is Sen. Doc. No. 85.

No American edition with maps is available.

**League of Nations.** Comparison of the plan for the League of Nations showing the original draft as presented to the commission constituted by the preliminary peace conference in session at Versailles, France, together with the Covenant as finally reported and adopted at the plenary session of the Peace Conference; also the presentation speeches of the President of the United States relating thereto. Washington, Government Printing Office, 1919. 35 p. 23½ cm. (66th Cong., 1st sess., Sen. Doc. No. 46.)

**League of Nations.** American draft of Covenant of the League of Nations, together with the report of the Commission of the League of Nations. Washington, Government Printing Office, 1919. 25 p. 23½ cm. (66th Cong., 1st sess., Sen. Doc. No. 70.)

**Covenant.** A draft of the composite covenant made by the legal advisers of the Commission on the League. Washington, Government Printing Office, 1919. 8 p. 23½ cm. (66th Cong., 1st sess., Sen. Doc. No. 74.)

**Treaty of Peace with Germany.** Report of the conference between members of the Senate Committee on Foreign Relations and the President of the United States at the White House, Tuesday, August 19, 1919. Washington, Government Printing Office, 1919. 56 p. 23½ cm. (66th Cong., 1st sess., Sen. Doc. No. 76.)

# LATIN AMERICA AND THE WAR

BY PERCY ALVIN MARTIN

*Associate professor of history, Leland Stanford Jr. University*

One of the most engrossing and difficult tasks of the future historian of the great war will be the just appraisal of the share each of the victorious belligerents had in the defeat of Germany and her allies. Such a study, if essayed at the present time, would necessarily lack finality. Yet even now it is possible to sketch the broad lines of the picture. The contributions of France, Great Britain, Italy, Belgium, Serbia, Japan, stand out clearly; their achievements need no heralding. The participation of the United States in the struggle has added imperishable chapters to American history. But while we accord to our European Allies a just meed of praise for their share in the triumph over the Central powers, we are sometimes prone to forget that the United States was not the only independent power of the Western Hemisphere which staked its resources and possibly even its existence on the defeat of the enemies of civilization. In other terms there exists a real danger that our Latin American Allies shall not receive a proper recognition for the share they played in the great world drama whose concluding act has just been completed in Paris. It is the object of this article to present in brief compass some account of the reaction of the great war on our sister republics of Latin America.

When on February 3, 1917, President Wilson announced that diplomatic relations with Germany had been severed he expressed the hope that the remaining neutral states might see fit to follow the example of the United States. There can be little doubt that he had reference to the republics of Latin America. The neutral powers were for the most part in no position to throw down the gauntlet to Germany, while the alignment of China with the Allies caused the greater part of Asia to become involved in the world conflict. And when on April 6 Congress declared war there



was a general expectation that Latin America would soon be found at the side of the United States in the great contest between freedom and despotism.

All things considered, the response of our sister republics was reasonably gratifying. Of the 20 independent states reaching from Cuba and Mexico on the north to Chile and Argentina on the south, eight actually entered the arena of warfare alongside the United States and our European Allies. These nations are: Brazil, Costa Rica, Cuba, Guatemala, Haiti, Honduras, Nicaragua and Panamá. It has been contended that the attitude of Uruguay and Perú was tantamount to a declaration of war, but as their action was not so regarded by Germany they could hardly be considered as belligerents.<sup>1</sup> Five republics—Bolivia, Perú, the Dominican Republic, Ecuador and Uruguay—broke relations with Germany; seven—Argentina, Chile, Colombia, Mexico, Salvador, Venezuela and Paraguay—remained neutral. Or, looked at from another angle, it may be noted that two-thirds of the total area and three-fifths of the total population of Latin America voiced in some official manner their solidarity with the United States and our European Allies. Put on a numerical basis this means that out of nine million square miles and a total population of 90 millions, six million square miles and nearly 50 millions of people could no longer be characterized as neutral.

### *Two Active Participants*

Yet such a classification, though impressive on paper, easily lends itself to misinterpretation. It might easily lead one to draw a too flattering conclusion. Of the actual belligerents only two, Brazil and Cuba, may be said to have taken anything like an active participation in the war; while Argentina and Chile, both members of the so-called A B C powers, carefully preserved a status of official neutrality. Mexico, the most important state north of the Isthmus, likewise falls within the same category. In other words, of the governments of the four Latin American countries of the most consequence three have studiously remained aloof from the war. But the official acts of the various states, signifi-

<sup>1</sup> Yet both of these nations were invited to send representatives to the peace conference and were parties signatory to the treaty of peace with Germany.

cant as they are, by no means tell the whole story. In no sense are they indicative of the attitude and sympathies of the majority of the thinking classes of these countries.

Any appraisal of the official and unofficial attitude of the Latin American republics toward the war must take into account a number of fundamental factors. The first of these is the sympathy of the great mass of the educated classes toward the European Allies and particularly toward France. If racially the Latin Americans of European descent hark back to Spanish and Portuguese origins, in all that makes up their culture and civilization, their debt to France has been immeasurable. This crops out in a thousand ways. French is spoken by all educated Latin Americans; French text-books are used in all the higher schools; French art and literature have served as the standards which Latin American artists and writers have consciously or unconsciously followed. When Latin Americans go abroad Paris is their Mecca; France their second *patria*. Possessed of such cultural and spiritual heritages, most Latin Americans have instinctively felt that the issues of the war ultimately resolved themselves into a struggle between Latin civilization and Teutonic aggression fully as much as into a contest between liberalism and autocracy.

The increasing indignation at the methods of warfare pursued by the Germans proved another factor of prime importance in moulding public opinion. The violation of Belgium and the resultant atrocities, the sinking of the *Lusitania*, the bombing of defenseless towns and hospitals, and finally the practice of unrestricted submarine warfare aroused the passionate resentment of all Latin Americans whose judgment had not been warped by prejudice or propaganda. Certain of the republics, the rights of whose citizens had been in no wise jeopardized, broke off relations with Germany largely as a protest against this policy of frightfulness. Such was the case of Bolivia, one of the two entirely landlocked countries of South America.

### *Self-Preservation an Incentive*

Another factor, though one of varying intensity in different countries, was the instinct of self-preservation. Those Latin Americans who could read history aright regarded with intense

anxiety the possibility of a German victory. They were fully alive to the fact that their independence was due in large part to the outcome of the European conflagration following the French Revolution. They had not forgotten that the designs of Napoleon on the Spanish American colonies and Brazil were thwarted by England, and those of Spain and the Holy Alliance on the recently liberated republics by England and the United States. A triumphant Germany dominating Europe and no longer held in check by the British fleet would, in the opinion of these Latin Americans, seize upon the first pretext to flout the Monroe doctrine and menace the sovereignty of certain of the South American states. Such a feeling was particularly strong in Brazil, whose southern states had long appeared on the maps of the Pan Germans as a future outpost of *Deutschtum*. Hence these Latin American nations could hardly regard with composure the defeat of that combination of powers which had enabled them to survive, or at least had protected them from aggression, during the past century.

As a corollary to this instinct of self-preservation was the influence of the United States and the ideals of Pan Americanism. The entry of the most powerful member of the Pan American brotherhood into the great conflict in defense of democracy and with no thought of territorial gain or selfish advantage had a profound repercussion throughout Latin America. In the tremendous struggle between autocracy and democracy many Latin Americans felt that they would be recreant to their highest ideals if they held aloof as neutrals. The Pan American movement, hitherto oftentimes regarded as a platonic sentiment or a subject for debate before international congresses or in after dinner speeches, suddenly took on a new and vital significance. As will be presently pointed out, this feeling of continental solidarity and community of ideals among the democracies of the new world was one of the causes which led Brazil actively to participate in the war.

Yet it would be idle to deny that the force of these factors was in a measure neutralized by a number of others, likewise common to all of Latin America. The first of these was of course German propaganda. This point needs no stressing; during the past four years it has been brought home to us in the United States repeatedly. But in Latin America it has assumed a peculiarly

subtle and sinister form. During the past few decades the countries to the south of us have been subjected to a highly organized and skillfully directed kind of economic and intellectual penetration. German professors and teachers have invaded the schools and colleges; traders and manufacturers have opened up new markets or endeavored to conquer old ones; army officers have secured employment as military instructors, particularly in Chile. These emissaries of *kultur* have copied with fidelity the manners of the Latin Americans, scrupulously observed their etiquette, flattered their *amour propre* and spared no pains to insinuate themselves into their good graces. They have not only struggled to increase the commerce and influence of the Fatherland, but have striven in season and out of season to misrepresent and envenom the relations between Latin America on the one hand and the United States and their European competitors on the other. And after the outbreak of the war German money and diplomacy were freely employed to secure control of the organs of public opinion, bribe officials who could be corrupted, and create dissensions and animosities. These maneuvers have been carried out with an unparalleled cynicism and effrontery, as has been revealed in the Luxburg and Zimmermann dispatches. While much of this propaganda has overshot the mark and recoiled on its authors, it has none the less been a force to be reckoned with.

### *Clerical Pro-Germanism*

While German propaganda has been an important factor in keeping a large section of Latin America on the side of neutrality, it by no means tells the whole story. As is well known, in certain countries the influence of the clergy on public opinion and politics is still marked; in Chile, for instance, the church has been one of the chief supports of the Conservative party. The evidence seems fairly conclusive that the attitude of the clergy has taken on a pro-German tinge. This is due in part to the influence of the Spanish priests of whom there are a considerable number in South America; in part to the hostility still felt toward France, owing to the anti-clerical legislation dating from separation of church and state. Certain over-zealous prelates in Chile have not hesitated to declare that Germany was the divine instrument



chosen to punish France for her infidelity and atheism. It may also be noted as symptomatic that the Catholics of Argentina welcomed with avidity the peace proposal emanating from the Vatican. It would be a mistake, however, to place too much stress on this factor. It should be recalled that Perú and Ecuador, countries in which the hold of the church is still very strong, both broke off relations with Germany.

Those Americans who expected the republics south of the Rio Grande unhesitatingly to follow the lead of the United States when we entered the war against Germany are prone to overlook an unpalatable but important fact, namely, the suspicion and distrust with which the "colossus of the North" is still regarded in certain circles of Latin America. Not infrequently our motives and actions in the past have been misunderstood and misinterpreted; injudicious remarks of certain of our public men and the unconsidered utterances of certain sections of our press have tended to re-enforce rather than to allay such suspicions. Fantastic as it may seem, there are not lacking many otherwise well-informed Latin Americans who firmly believe that the United States is aiming at the hegemony of the Western Hemisphere. As proof of their assertion they point to the War of 1848, the circumstances under which Panamá was separated from Colombia, and to the recent establishment of quasi-protectorates over certain of the Caribbean and Central American republics. The Monroe doctrine as at present proclaimed has given rise to a certain resentment. And in all conscience it must be admitted that the conduct of the United States in the past has lent a certain warrant to these suspicions. It is this distrust—largely groundless to be sure—which in the case of a number of Latin American republics, notably Colombia, has militated against any closer approximation to the United States even under the stress of the great war.

Finally, it must be admitted in all candor that many Latin Americans have honestly believed that the best interests of their countries could be subserved by adherence to a strict neutrality. Such a decision, if honestly reached, should be no occasion for censure. Our own tardy entrance into the war should make us the more prone to suspend judgment in the case of those countries who elected to remain outside the conflict, especially when the rights of their citizens were in no wise placed in jeopardy.

## BRAZIL AND THE WAR

The play and interplay of the various factors just noted may best be studied in the case of the individual nations of Latin America. Our survey naturally begins with Brazil; not only because she is the largest and most populous of all the Latin American states, but also because she has whole-heartedly and without reservation identified her cause with that of the Allies and the United States.

From the very beginning of the war it was clear to which side the sympathies of the Brazilians as a whole would incline; it was taken for granted that the majority of the educated classes, at least, would eagerly espouse the cause of the Allies. And this pro-Ally sentiment, at first largely instinctive, was overwhelmingly strengthened by the invasion of Belgium. As early as August 8, 1914, the Brazilian Chamber of Deputies approved by a large majority the motion of Senhor Ireneu Machado, according to which Brazil went on record as opposed to the violation of treaties and the flouting of international law. Though neither Germany nor Belgium came in for specific mention, the purport of the motion was unmistakable.

Sympathy for the Entente soon crystallized into a powerful organ known as the Brazilian League for the Allies. As president of the league was chosen the distinguished statesman and publicist, Ruy Barbosa. The selection could not have been more fortunate or significant. Ruy Barbosa's claims to recognition date back to the days of the Brazilian Empire, when he won his spurs in Parliament by an impassioned plea for the abolition of negro slavery. Under the Provisional Government which followed the overthrow of the Empire in 1889 he was appointed minister of finance; later he gained an international reputation through his brilliant championship of the right of smaller nations at the Second Hague Conference. As orator, diplomat and statesman his voice has always been lifted up in behalf of justice and the cause of humanity. At the present time he is recognized as one of the most brilliant thinkers of Latin America. The vice-president of the league was, until his death in April, 1916, Brazil's leading literary critic and essayist, José Verissimo. Among its most active members has been Olavo Bilac, foremost living poet.



Leading business men, as well as prominent members of both houses of Congress, have been enrolled within its ranks.

Prior to Brazil's participation in the war the league confined its efforts to creating currents of sympathy for the Allies, to drawing tighter the cultural bonds between Brazil and France, and to the alleviation of suffering in the stricken regions of Europe. It was especially active in raising funds for the Brazilian and French Red Cross. After Brazil had formally entered the ranks of the belligerents the league greatly extended the scope of its activities; possibly its greatest service has been its intensive campaign of public education on the issues of the war.

### *Brazilian Indignation Increased*

As the contest wore on and the purposes and methods of Germany were revealed in all their enormity, the indignation of the Brazilians became more and more unrestrained. The economic crisis coincident with the first two years of the war aggravated the general discontent. At the outset hostilities had seriously dislocated the economic life of Brazil, as it had that of other countries; finances were thrown into disorder; trade and commerce threatened with paralysis. In this connection it should be recalled that a considerable percentage of the public revenues is drawn from custom dues, while one of the chief sources of the country's wealth is the sale of raw material and agricultural products abroad. The British blockade, by cutting off Brazil from all trade with the Central powers, rendered the situation acute; indiscriminate submarine warfare, threatening to deprive Brazil of her remaining European markets, rendered it all but intolerable. It was in fact this submarine menace, culminating in the piratical sinking of a number of Brazilian ships, which finally goaded the nation into severing diplomatic and commercial relations with Germany and eventually into a declaration of war. The steps leading up to the open break with Germany are sufficiently important to deserve recapitulation. They not only reveal the patience and forbearance of Brazil under extreme provocation but present a significant parallel with a similar chain of fatal developments in the United States.

Brazil is one of the few Latin American powers possessing a merchant marine of respectable proportions, and with the dearth

of shipping following the outbreak of the war she found it profitable to maintain regular communications with Europe, thus exposing her ships to the peril of German ruthlessness. The inevitable result followed. On May 1, 1915, nearly two years before the official declaration of unrestricted submarine warfare, a German submarine overhauled the Brazilian steamship *Rio Branco* off the coast of England and, after shelling her and seizing her papers, sent her to the bottom. The effect on Brazil was instantaneous and profound. The dignified *Jornal do Commercio*, the foremost representative of public opinion in the country, indignantly declared: "The very name *Rio Branco* [Brazil's noted exponent of foreign affairs] signifies with us the noblest principles of diplomacy and international law. The German torpedo which sank our ship shattered these principles. Our duty is to protest with the utmost vigor against this brutal and unjustifiable crime." This pronouncement was comparatively restrained. Most of the great dailies of Rio de Janeiro voiced in one manner or another the sentiment of the *Gazeta de Noticias*: "The staff of William of Hohenzollern is a veritable camarilla of assassins and bandits who have declared war on humanity. To combat this infamous Prussianism is the duty of all nations."

### *Ruy Barbosa's Eloquent Indictment*

Despite the belated proffer of an apology with a suggestion of the eventual payment of damages by Germany, in the months which followed the tension in Brazil steadily grew. The adherence of Portugal, Brazil's former mother country, to the ranks of the belligerents in the spring of 1916 evoked tremendous enthusiasm and brought home to the Brazilians the realization that after all blood is thicker than water. Later in the same year the attitude of Brazil toward the issues of the war was even more clearly defined. In July the Argentine Republic celebrated the centenary of her complete independence of Spain as proclaimed in the Congress of Tucumán in 1816. To the elaborate festivities held in Buenos Aires Brazil sent as her special ambassador her most distinguished citizen and public man, Ruy Barbosa. In an impassioned and brilliant oration delivered before the Faculty of Law in the Argentine capital, Dr. Barbosa defined Brazil's sympathies in the European conflagration with a clarity and precision which

left little to be desired. "No nation can be a law unto itself," he declared in substance. "None can be an indifferent spectator in this world tragedy. Neutrality entails obligations. Between those who destroy the law and those who uphold it, neutrality is not permissible. Neutrality does not mean impassibility; it means impartiality, and there can be no impartiality between right and justice on the one hand and crime on the other. To demand the observance of those precepts on which the conscience of nations reposes, to demand respect for treaties, is not to break neutrality but to respect it."

This speech found approbation in wide circles and its significance was vastly enhanced by the fact that its author was generally regarded as having spoken in his official capacity as the representative of Brazil. Both branches of the Brazilian Congress voted on July 17 by an overwhelming majority, that the speech be published and be preserved as a part of their proceedings.<sup>1</sup>

Causes for friction between Brazil and Germany continued to multiply. The growing intensity of the ship famine stimulated sentiment in favor of the seizure of the 44 German vessels, aggregating nearly a quarter of a million tons, interned in Brazilian harbors. The refusal of Germany to make satisfactory settlement for the large quantities of coffee stored in Hamburg and the clumsy maneuvers of German agents and spies in Brazil, added fuel to the flames. And, finally, the announcement by Germany of unrestricted submarine warfare, followed immediately by the

<sup>1</sup>*Jornal do Commercio*, July 18, 1916. In presenting the motion to the Lower House, the deputy, Senhor Pedro Moacyr, declared: "We can no longer remain the criminal accomplices of the theories and instruments of might and brutality however powerful they may be. It is absolutely necessary that we align ourselves with the forces of civilization menaced with destruction." In the Upper House Senator Guanabara spoke in a similar strain (*ibid.*).

This frank declaration of sympathy for the cause of the Allies by the Brazilian Congress aroused a feeling of deep gratitude in France. At the instance of MM. Clemenceau and Leygues the Committee on Foreign Affairs of the Senate and Chamber of Deputies, in the name of the French Parliament, sent to the Brazilian Congress a vote of thanks and appreciation, while a committee of French notables, including such names as MM. Paul Deschanel, Maurice Barrès, Henry Bergson, René Doumic, Anatole France and Auguste Rodin addressed an invitation to Ruy Barbosa to cross the Atlantic and "be a witness to the heroism and sacrifices of France in the maintenance of our common ideals and aspirations." Even Belgium sent a special mission consisting of the deputies of Ghent and Namur to bear a letter of greeting and thanks from the Belgian Parliament to the Brazilian Congress for its vote of sympathy and solidarity. (*Le Brésil* (Paris), August 13, 1916.)

severance of relations between the United States and the German Government, stirred public opinion to its very depths. In a dignified reply to the German declaration, the Brazilian Government stated that "it is its duty to protest against this blockade, as in fact it does protest, and therefore it leaves to the Imperial German Government the responsibility for all events which may happen to Brazilian citizens, merchandise or ships as a result of the abandonment of the principles recognized by international law, or by conventions to which Brazil and Germany are parties."<sup>1</sup>

The powder train was laid; only a spark was needed to cause an explosion. On April 5, 1917, two days before the United States declared war on Germany, a German submarine sank the Brazilian steamer *Paraná* off the coast of France under particularly brutal circumstances. But one course consonant with her national honor and self-respect remained open to Brazil. On April 11 the Government handed Herr von Pauli, the German minister, his passports.<sup>2</sup>

### *Public Opinion Supported Government*

It soon became evident, in the case of Brazil as in the case of the United States, that the situation created by the aggression of Germany could not be met by a mere severance of diplomatic and commercial relations. Public opinion and the press had thus far, with striking unanimity, supported the actions of the Government; during the spring and summer national sentiment gradually crystallized into the conviction that Brazil would definitely cast in her lot with the United States and the Allies as a full belligerent. On April 16 a huge demonstration was held in Rio de Janeiro under the auspices of the Brazilian League for the Allies. In the presence of a vast concourse Ruy Barbosa declared, amid tremendous enthusiasm, that all of Latin America would soon be fighting side by side with the United States in defense of the rights of humanity. The Government itself gave intimations that changes in Brazil's status were impending. On May 22 President Wenceslao Braz, in a special message to Congress, suggested that "the Brazilian nation, through its legislative organ, . . . adopt the attitude that

<sup>1</sup> Note from the Brazilian minister to Germany to the German secretary of state for foreign affairs, dated February 9, 1917 (Brazilian Green Book, 28).

<sup>2</sup> Brazilian Green Book, 30.



one of the belligerents [the United States] forms an integral part of the American continent, and that to this belligerent we are bound by a traditional friendship and by a similarity of political opinion in the defense of the vital interests of America and the principles accepted by international law."<sup>1</sup>

On the very day on which this message was delivered word reached Brazil of the sinking of the steamer *Tijuca* off the harbor of Brest.<sup>2</sup> Four days later President Braz again addressed Congress and, after stressing the gravity of the situation, urged that the 46 German ships lying in Brazilian harbors be utilized as a partial alleviation of the shipping crisis.<sup>3</sup> This was done by two decrees, issued July 1 and 2 respectively; the first of these acts also revoked the decree of technical neutrality in the war between the United States and Germany.<sup>4</sup>

The revocation of neutrality was rightly regarded as an event of deep significance in the traditional friendship between Brazil and the United States. The history of the diplomatic relations between the two countries bears frequent witness to this sentiment of cordiality and mutual esteem. It may be recalled, for instance, that in less than two months after the reading of President Monroe's famous message the Brazilian Government issued instructions to its representative at Washington to propose to the United States an offensive and defensive alliance on the basis of the newly enunciated Monroe doctrine, acting on the principle "that it was not in accordance with reason, justice and right that sacrifices, such as those which the United States undertook to make for the other American nations, should be accepted gratuitously."<sup>5</sup> When the United States and Great Britain agreed to submit the Alabama claims to arbitration, the Brazilian Emperor, Dom Pedro II, was requested to name one of the arbiters. More re-

<sup>1</sup>Brazilian Green Book, 40.

<sup>2</sup>*Ibid.*, 41.

<sup>3</sup>*Ibid.*, 42.

<sup>4</sup>*Ibid.*, 43, 44. The decree of neutrality had been issued April 25, 1917 (Brazilian Green Book, 39).

Of the 46 German ships, with an aggregate tonnage of 240,000, 30 were subsequently chartered to France for the sum of 110 million francs; the remaining 13 were employed to supplement the existing Brazilian lines, notably the Lloyd Brasileiro. (*The Americas*, Vol. 4, No. 4 (January 1918), p. 32.)

<sup>5</sup>Baron of Rio Branco, "Brazil, the United States and the Monroe Doctrine," *Jornal do Commercio* (Rio de Janeiro), January 20, 1908. Reprinted in pamphlet form under the same title.

cently, when the attitude of General Huerta caused the United States to withdraw its ambassador from the City of Mexico, American interests in Mexico were intrusted to the Brazilian minister, Senhor Cardoso de Oliveira. And on the present occasion the Brazilian Government was at pains to point out the true import of the revocation of neutrality in the war between the United States and Germany. On June 2 a circular note was sent, through its diplomatic representatives, to all the powers to which the Republic was accredited:

The Republic has thus recognized that one of the belligerents is an integral part of the American continent, and that we are bound to this belligerent by a traditional friendship and by a similarity of political opinion in the defense of the vital interests of America and the principles accepted by international law.

Brazil never had, and still has not, warlike ambitions, and if she always abstained from any partiality in the European conflict, she could not remain indifferent to it, when the United States were drawn into the struggle without any interest therein but in the name alone of respect for international law, and when Germany extended indiscriminately to ourselves and other neutrals the most violent acts of war.

If hitherto the relative lack of reciprocity on the part of the American republics has withdrawn from the Monroe doctrine its true character, permitting a scarcely well-founded interpretation of the prerogatives of their sovereignty, the present events, by placing Brazil, even now, at the side of the United States, in the critical moment of the world's history, continue to give our foreign policy a practical form of continental solidarity—a policy indeed which was that of the old régime on every occasion on which any of the other friendly sister nations of the American continent were in jeopardy.<sup>1</sup>

#### *Cordial Response from America*

President Wilson immediately replied by telegram, under date of June 5, to the Brazilian minister of foreign affairs:

I must transmit to your excellency, in the name of my Government, the sentiments of deep appreciation with which the recent

<sup>1</sup> Brazilian Green Book, 48-49. A large part of the Green Book is taken up with the replies to this circular note. A number of these replies are of value as giving in official form a statement of the attitude of governments by which they were dispatched.



act of the Brazilian Congress, with reference to the present struggle for peace and liberty, was received in the United States.

I am sure that I speak in the name of my fellow countrymen when I express my warm admiration for this act, and the hope that it is the forerunner of the attitude to be assumed by the rest of the American states. I face the future with the confident hope in their co-operation in a united movement to put down the German menace.<sup>1</sup>

The response of President Braz, sent on June 13, should also be quoted:

I thank your excellency for the memorable words with which you congratulated Brazil, in the name of the People and Government of the United States, for the frankness of her attitude in this historic moment. Brazil, in taking her place once more at the side of the United States, has remained faithful to her political and diplomatic traditions of continental solidarity and, as in the case of the great American Nation, we are not actuated in this step by hatred or interest, but by a regard for international law and the defense of principles which, if they are in dispute or danger in the Old World, must meet with shelter and support among the free peoples of the two Americas. Brazil has settled all her foreign questions; she has no ambition in the present instance, and has not suffered in the past, and prizes as a great boon the friendship of the United States. More than any external manifestations, no occasion could so unite the hearts of Brazil and the United States as the present period of uncertainty and struggles.<sup>2</sup>

The final and complete break with Germany did not come until the autumn of 1917. On October 24 word reached Brazil that the ship *Macau* had been torpedoed by a German submarine and its captain taken prisoner. On the following day President Braz sent a special message to Congress; after recalling that in all four ships had been illegally sunk, he declared that in the latest instance the gravity of the case was enhanced beyond measure by the capture of the commander. By these acts a state of war had in effect been imposed upon Brazil by Germany; it only remained for Brazil to take such action as was necessary to maintain "un-

<sup>1</sup> *Ibid.*, 45.

<sup>2</sup> *Ibid.*, 49.

injured the dignity of the nation.”<sup>1</sup> On October 26 Congress passed a resolution which recognized and proclaimed “the state of war initiated by the German Empire against Brazil.”<sup>2</sup> The resolution was adopted unanimously in the Senate and by a vote of 149 to 1 in the Chamber of Deputies. Thus did Brazil definitely and unequivocally align herself with the United States and the Allies in the defense of democracy.

The time has not yet arrived when the full story of Brazil's participation in the war may be recounted. Much of the necessary data is not yet available in the United States. Many of the exploits and achievements of the Brazilian fighters on land and sea have not been given to the public. Yet it may be asserted without fear of contradiction that in so far as opportunity offered Brazil played a rôle reflecting credit upon herself and her Allies.

### *Precautions Against Germans*

The most pressing and obvious measures had to do with internal defense. On November 16, 1917, a law was passed investing the Government with a number of extraordinary powers, perhaps the most important of which was the authorization to declare in any section of the country a state of siege.<sup>3</sup> This provision was particularly aimed at the suppression of possible disorders in the three southern states of Paraná, Santa Catharina and Rio Grande do Sul, where the bulk of the German population was concentrated. Alarmists both within and outside of Brazil had long looked upon these regions as a danger spot in case of a clash with Germany. While plans for the eventual absorption of southern Brazil into a greater German Empire was generally regarded as the vaporings of Pan German chauvinists,<sup>4</sup> the measured statements of such authorities as Gustav Von Schmoller, perhaps the most distinguished economic historian in Germany, contained food for careful thought. Writing in 1900 Von Schmoller declared:

We must desire that at any cost a German country containing some 20 to 30 million Germans may grow up in the coming century

<sup>1</sup> *Ibid.*, 88.

<sup>2</sup> *Ibid.*, 88.

<sup>3</sup> *Ibid.*, 99.

<sup>4</sup> Such utterances as those of Otto Hötsch and Tannenburg, printed in *Conquest and Kultur*, 101 and 102.

in South Brazil—and that, too, no matter whether it remains a portion of Brazil or becomes an independent state or enters into close relationship with our empire. Unless our connection with Brazil is always secured by ships of war, and unless Germany is able to exercise pressure there, our development is threatened.<sup>1</sup>

From certain points of view the apprehensions of these alarmists seemed not without cause. A population of Teutonic extraction, estimated at from a quarter to half a million, seemed to be firmly entrenched in one of the most fertile and productive regions of the republic. It was well known that German spies and propagandists had long carried on their machinations practically unchecked. During long periods in the preceding century Rio Grande do Sul had been in chronic revolt against the central government at Rio, and the entire energies of the country had been required to put down these uprisings. And while the German elements had hitherto largely held aloof from this civil strife, the question naturally arose, would they not seize the present occasion to embarrass the authorities in every possible way in the prosecution of the war?

If the German Government had hoped that a declaration of war would be a prelude to a revolution in southern Brazil, it was speedily undeceived. Save for occasional protests in the coast towns, notably Rio Grande do Sul, the German sections of the population remained quiescent. This tranquility was undoubtedly due in part to the energetic action of the Government. A considerable portion of the Brazilian army was sent to the disaffected districts; on November 17 the President declared martial law in the Federal District and all the states of southern Brazil including Rio de Janeiro and São Paulo. Coincident with the suspension of constitutional guaranties came the establishment of the censorship of newspapers and letters and the internment of a considerable number of Germans.<sup>2</sup> But the forehanded and vigorous action of the authorities did not entirely account for the absence of serious disturbances in southern Brazil.

<sup>1</sup> *Handels- und Machtpolitik* (Stuttgart), I, 36; quoted in *Conquest and Kultur*, 98.

<sup>2</sup> *The Americas*, Vol. 4, No. 4 (January, 1918), 30. Many of these Germans were later set to work on plantations where they were employed in the cultivation of cereals.

Large sections of the German population remained either loyal to the country of their adoption or of their birth, or at least indifferent to the issues of the war. The bulk of these Germans had lived for nearly three generations in Brazil, frequently insulated from all contact with the outside world, knowing little of what happened in the Fatherland.<sup>1</sup> Only in the coast cities, such as Rio Grande do Sul and Pelotas, where the large business houses are in the hands of Germans, did Brazil's entry into the war cause any strong reaction. Such disorders as arose, including a railroad strike probably fomented by German sympathizers, were put down by the authorities without serious difficulty. In the last analysis the danger of German aggression in southern Brazil was potential rather than actual. A defeat of the Allies and the United States would possibly have spelled for Brazil the loss of her states lying in the temperate zone.

### *Extensive War-time Measures*

Other measures adopted by the Government, as provided by the law of November 16, had as their object: to declare null and void all contracts concluded with Germans for public works; to prevent German subjects or enterprises from acquiring new grants of land; to supervise the activities of German banks and other business and commercial enterprises and if necessary to annul their charters; to take measures to prevent the transference of property during the war; to intern German subjects whose activity was open to question.<sup>2</sup>

Brazil had hardly become a belligerent before the Government began seriously to consider the eventuality of military participation in the war on a large scale. On December 27, 1917, Congress authorized the president to revise the compulsory military service law of 1908 in order to establish the principle of a national rather than a professional army.<sup>3</sup> The result was not only a considerable increase in the size and efficiency of the army, but also a rapid and salutary democratization. A mission was sent to the United States to arrange for close military co-operation and for the pur-

<sup>1</sup> This point is clearly brought out by the French writer E. Tonnelat, in *L'Expansion allemande hors d'Europe*, (Paris, 1908). Cf. especially pp. 91-154: "Les Colonies allemandes au Brésil."

<sup>2</sup> Brazilian Green Book, p. 99.

<sup>3</sup> *The Americas*, Vol. 4, No. 6 (March, 1918), 28.

chase of equipment and machinery which would enable Brazil to augment her production of war materials.<sup>1</sup> Had the war lasted another year and the necessary transportation been available, there is every reason to believe that Brazil would have sent a considerable armed force to the Western front. Colonel Gama, head of this mission, stated in May, 1918, that plans had been made to dispatch troops to France during the course of the ensuing summer, and rumors were later afloat that a Brazilian force had actually landed in France in August.<sup>2</sup> While these reports, lacking official confirmation, were regarded as premature, it is clear that in the months preceding the armistice Brazil was preparing to assume her full obligations as an active belligerent.

It is an error to assume that Brazil's actual share in the defeat of the Central Powers was a negligible quantity. In December, 1917, the British Admiralty inquired, through the Brazilian legation at London, if Brazil could send a fleet of light cruisers and destroyers to co-operate with the Allies under the command of the British admiral. The invitation was accepted with enthusiasm; before the end of the month the Brazilian Admiralty dispatched to European waters a fleet composed of the scout cruisers *Rio Grande do Sul* and *Bahia*, and the destroyers *Parahyba*, *Rio Grande do Norte*, *Piahy* and *Santa Catharina*.<sup>3</sup> Early in the following year Brazil sent to the Western front a group of ten aviators from the Naval Aviation Corps.<sup>4</sup> A considerable number of physicians and several Red Cross units have worked in close co-operation with the Allies.<sup>5</sup>

### *Added to Allied Food Supply*

Yet, all things considered, the most important contribution of Brazil toward winning the war has been her successful efforts to augment the food supplies available for the Allies. Under the direction of the Government systematic endeavors were made to increase the nation's agricultural and pastoral products suitable for export. Important results were achieved. During the last

<sup>1</sup>New York *Times*, December 16, 1917; March 10, 1918.

<sup>2</sup>New York *Times*, May 26, August 7.

<sup>3</sup>Brazilian Green Book, 108, 109.

<sup>4</sup>*Ibid.*, 111.

<sup>5</sup>Cf. the statement made in May, 1918, by Admiral Francisco de Mattos, chief of the Brazilian Naval Mission in Europe (*Christian Science Monitor*, June 1, 1918).



year of the war there took place an enormous expansion in areas planted, amounting in certain sections of the great state of Minas Geraes to 500 per cent. The minister of agriculture took the initiative by supplying large quantities of seeds; during the single week of December 31, 1917—January 6, 1918, 24,092,000 kilograms were distributed in 14 states from Rio de Janeiro north to Amazonas.<sup>1</sup> On June 12, 1918, a presidential decree was issued providing for a Commission of Public Alimentation composed of one commissioner and a number of subordinates. This body was empowered to make a weekly inventory of all existing stocks of food stuffs, to secure the purchase and requisition of such quantities as might be necessary to meet both local and war needs, and, finally, if necessity arose, to regulate prices.<sup>2</sup> Unfortunately statistics for 1918 are not yet available, and it is therefore impossible to state with precision the full results of Brazil's endeavors to increase the world's food supplies. But such data as we have at hand reveal an almost phenomenal increase in the exportation of certain classes of foodstuffs from 1915 through 1917. Thus the exports of beans, which in 1915 had slightly exceeded \$24,000 in value, rose in 1917 to over \$10,000,000; the value of the sugar exports in the same period showed an increase from over \$3,000,000 to \$17,000,000, and, most important of all, refrigerated beef registered an increase in value from slightly over \$1,500,000 to over \$15,000,000.<sup>3</sup>

From our brief survey it will be seen that from the first Brazil loyally and scrupulously fulfilled her duty as an Ally. Such co-operation and aid as were within her power to give were bestowed whole-heartedly and unstintingly. That her contribution to the common cause was not on a larger scale was due to circumstances beyond her control, the most important of which were absence of adequate shipping facilities and great distance from the seat of military operations. As a striking testimony to the vitality of Pan American solidarity her participation in the war has been of incalculable value.

### CUBA

The participation of Cuba in the great war was prompt, spontaneous and effective. In the early days of the struggle the

<sup>1</sup> *The Americas*, Vol. 4, No. 6 (March, 1918).

<sup>2</sup> *Ibid.*, Vol. 5, No. 10 (January, 1919).

<sup>3</sup> *Commerce Reports*, Supplement No. 40a, February 12, 1919.

sympathies of Cuba, as in the case of her sister republics, inclined strongly toward the Allies. When it became evident that the New World was to be included within the theater of the conflict, public opinion, in so far as it was articulate, made it clear that the United States could count on a sentiment of complete solidarity and loyal co-operation. In response to the German war zone decree of February, 1917, Cuba at once took a stand with her northern neighbor in protesting against the actions of the imperial German Government. On the day following the declaration of war by the United States, April 7, 1917, the Cuban Congress unanimously and enthusiastically adopted, in conformity with the message of President Menocal, a joint resolution that there existed a state of war between the Republic of Cuba and the German Empire. In his message to Congress, President Menocal developed at some length the causes which led Cuba to enter the ranks of the belligerents. In characterizing Germany's violation of international law and the rights of neutrals, the President declared:

Such acts of war without quarter against all nations whose subjects sail the seas . . . can not be tolerated or consented to without accepting them, *ipso facto*, as lawful for the present and for all time. The Republic of Cuba ought not to remain indifferent in the face of such stupendous violations of international law. . . . Nor can she by any means decorously remain aloof from the stand nobly and courageously taken by the United States, to whom we are bound by sacred ties of gratitude and fraternity.<sup>1</sup>

In commenting on the declaration of war, President Menocal stated:

The spontaneity and decision of these acts impart to them a very high and patriotic significance. No recommendation of the Government of the United States moved the will of the Government of Cuba nor excited the generous passions of her people. None was necessary. The horror, universally inspired by the haughty and violent attitude by which an imperialistic power, vain of its might, attempted to impose upon the world an intolerable domination, was joined in the Cuban people with the energetic

<sup>1</sup>*Official Bulletin*, September 24, 1918, page 15, column 1.

will, the noble ambition, to co-operate with all their strength and with all their resources in the sacred defense of the liberty and sovereignty of all peoples against the malignant and menacing military power.<sup>1</sup>

### *Political Rivalries Adjourned*

Not the least significant aspect of Cuba's participation in the war has been the unanimity of public opinion in all matters affecting the foreign policy of the Government. Liberals and Conservatives forgot their former animosities, which a few months previous had threatened to engulf the country in civil war, and vied with each other in their zeal for the common cause. Restrictions, taxes and regulations which normally would have aroused fierce antagonisms were accepted with cheerful equanimity. The attitude of the press throughout the course of the war was irreproachable, while Congress never hesitated to clothe the Executive with extraordinary and far-reaching powers.

The Cuban people, through their representatives in Congress, did not shrink from incurring heavy financial obligations for the prosecution of the war. Shortly after the declaration of hostilities Congress authorized, on the recommendation of the President, a bond issue of 30 million dollars to be used for war expenses, and new taxes were levied which produced an unexpected revenue. On May 15, 1918, a law was passed which granted for the duration of hostilities an annual credit of \$2,400,000 to be employed for the benefit of the victims of the war. The greater part of this sum was assigned to the Red Cross organizations of the United States and the Allies.<sup>2</sup> The Cuban Red Cross organization also vastly extended the scope of its activities. Under the able direction of Señora Menocal, the wife of the President, sufficient funds were raised to equip and send to the front a hospital unit of one hundred doctors and nurses.<sup>3</sup> Finally the Cuban people liberally responded to the various United States Liberty Loans<sup>4</sup>.

<sup>1</sup>*Official Bulletin*, September 24, 1918, page 15, column 2.

<sup>2</sup>*Boletín de Información*, publicado por la Comisión nacional cubana de propaganda por la Guerra y de Auxilio á sus víctimas. (Habana, October, 1918), t.1, num. 2, 51.

<sup>3</sup>*Current History Magazine*, VII, 318; *Pan American Union Bulletin*, XLV, (November, 1917), 687.

<sup>4</sup>*Boletín de Información*, t. 1, num. 2 (October, 1918), 31.

Although military participation in the war was necessarily restricted, Cuba contributed generously and loyally within the limits of her capacity. On August 21, 1917, by presidential decree, the Government turned over to the American authorities, without compensation, the four German steamships interned in Cuban harbors.<sup>1</sup> An obligatory military service bill was passed on August 3, 1918, and a number of military and naval training camps were established; at the same time reciprocal co-operation was effected between Cuba and the United States in the sending and receiving of troops for military instruction.<sup>2</sup> The President was authorized to send troops and military missions abroad and in October, 1918, the Government announced its intention of dispatching 25,000 trained officers and men to France for immediate service.<sup>3</sup> The Cuban aviation service underwent a great expansion and a considerable number of aviators was sent to France, at least two of whom achieved brilliant records as members of the Lafayette Escadrille.<sup>4</sup>

### *Propaganda Neutralized*

Numerous domestic war measures were adopted and vigorously enforced. In certain cases constitutional guaranties were suspended; means were found to cope with and neutralize espionage and enemy propaganda; a large number of alien enemies were interned. An efficient censorship of mail, telegraphs and cables was established with the assistance of American experts.<sup>5</sup>

All things considered, Cuba's most effective material aid lay in the field of economic co-operation with the United States. In agreement with the American Food Administration, the distribution and supply of food stuffs were subjected to severe regulations. On October 6, 1917, for instance, President Menocal, by executive decree, applied to all exports from Cuba the export regulations in force in the United States. When the sugar supply became a vital question to both countries the Cuban Government not only exercised a control over production and prices, but also worked out a plan for the exportation of the entire crop

<sup>1</sup>*Ibid.*, 26; American Year Book, 1917, 51.

<sup>2</sup>*Official Bulletin*, September 24, 1918, page 16, column 1.

<sup>3</sup>*Current History Magazine*, IX (first part), 318.

<sup>4</sup>*Ibid.*

<sup>5</sup>*Official Bulletin*, September 24, 1918, page 16, column 1.

for 1918, estimated at three and one-half million tons, the greatest annual yield in the history of the island.<sup>1</sup>

An evidence of Cuba's moral support of the United States and the Allies, and of her enthusiasm for the cause of freedom and democracy, is to be seen in her proclamation of the 4th, 14th and 24th of July, as national holidays in honor of the United States, France and Belgium respectively.<sup>2</sup> Surely the American people may feel that they have reaped a rich reward for their generous and disinterested policy toward Cuba during the last two decades. History offers few examples of a more spontaneous manifestation of loyalty and gratitude than that afforded by Cuba voluntarily placing her man power and her material resources at the service of the United States and the Allies in the world struggle between liberty and despotism.<sup>3</sup>

## ARGENTINA

Of the nations of Latin America whose recent material progress and cultural achievements have challenged world-wide attention, Argentina stands in the vanguard. As the largest and most influential Spanish-speaking country of South America, her attitude toward the war was naturally regarded with anxious interest by both groups of belligerents. Of the popular sympathies of the great mass of the Argentines there had never been any real question. Early in the struggle the tide set in strongly in favor of the Allies. It was natural and fitting that this should be so. Commercial and financial relations with Great Britain had been intimate and of long standing; as is well known British capital, particularly in railroads, had powerfully contributed to Argentina's phenomenal economic growth. The thrifty and respected

<sup>1</sup>*Boletín de Información*, t. 1, num. 2 (October, 1918), 27.

<sup>2</sup>*Ibid.*

<sup>3</sup>The attitude of the Cuban people toward the United States under the stress of the Great War appears clearly from the tenor of the speeches made in the Congress at Havana. Deputy Dr. José Manuel Cortina, in an eloquent address delivered on April 7, 1917, declared: "We go to fight as brothers beside that great people who have been ever the friends and protectors of Cuba, who aided us during the darkest days of our tragic history, in moments when opposed by enormous strength we had nearly disappeared from the face of the earth, when we had no other refuge, no other loyal and magnanimous friend than the great North American people." Quoted in an article by L. E. Elliott, "Latin America and the War," *Pan American Magazine*, XXVI, No. 1, November, 1917.



Italian elements, constituting over one-fourth of the total population, were profoundly moved by Italy's entry into the war, and early championed the cause of *Italia irredenta*. And to the Argentines in general, nurtured in the civilization and traditions of Latin Europe, the recent manifestations of German *kultur* could make but a scant appeal. On the other hand, the sufferings and heroism of Belgium struck a responsive chord in the hearts of a people peculiarly susceptible to generous emotions. Above all the admiration and affection for France became almost a passion among the Argentine intellectuals. In somewhat extravagant words one of the Argentine writers declared shortly after the outbreak of the war: "In our literary circles, in our artistic coteries, in the scientific academies of the universities, and in the mansions of the aristocracy, France is revered as was Athens in the days of Pericles."<sup>1</sup>

Yet contrary tendencies were at work. In Argentina even more than in Brazil, the emissaries of *kultur* kept up an insidious but tireless propaganda. Prior to the entry of the United States into the war, a flood of carefully edited cable dispatches emanated from the New York branch of the German Press Bureau and were furnished gratuitously to such newspapers as would print them. When the two great representatives of the metropolitan press, the Buenos Aires *La Prensa* and *La Nación*, showed themselves staunchly pro-Ally, a Germanophile organ, *La Unión*, made its appearance in the capital to be followed by a flood of profusely illustrated periodicals distributed broadcast through the country. With headquarters in Buenos Aires, German propaganda invaded the whole southern portion of the continent. No element of the population was neglected. For the benefit of the Italian colony the Central Labor Exchange of Berlin launched the publication of a periodical *Il Lavoro*, which, well-edited and written in excellent Italian, enjoyed a large circulation. Among the educated classes the seeds of German propaganda had been sown by distinguished German scholars who had long held chairs in the Universities of Buenos Aires and La Plata; the harvest appeared when a small but influential group of writers and publicists openly espoused the cause of Germany.

<sup>1</sup>W. S. Robertson, "Argentina's Attitude Towards the War," *The Nation* (New York), March 1, 1917.

*Reasons for Remaining at Peace*

During the first three years of the war there was little likelihood of Argentina's departure from neutrality as long as no national interests were placed in jeopardy. In fact, there were excellent reasons for remaining at peace. When the first economic readjustment had taken place, the Argentines discovered that the war might prove exceedingly profitable. The country had gained by the enormously increased value of her staple exports, grain, meat, wool and hides, which the Allies purchased in immense quantities. German agents likewise bought up for future delivery such supplies of raw materials as they could lay their hands upon. Even the submarine crisis of the winter of 1917 did not cause any change in the attitude of the Government. The German announcement of unrestricted submarine warfare merely led to the platonic declaration that Argentina would "adjust her conduct, as always, to the fundamental rules and principles of international law."<sup>1</sup> To be sure, on the entry of the United States into the war, the Argentine Government, in a note dated April 11, 1917, went so far as to voice its approval of the policy of the United States while recognizing the justice of the cause which led to the declaration of war against Germany.<sup>2</sup> But, at the same time, it gave no intimation that it would depart from its policy of strict neutrality, and in this course it apparently could count on the support of public opinion.<sup>3</sup>

<sup>1</sup>American Year Book, 1917, 54.

<sup>2</sup>The text of this note, delivered by Ambassador Naón to Secretary Lansing on April 11, is as follows: "The Government of the Argentine Republic, in view of the causes which have prompted the United States to declare war against the Government of the German Empire, recognizes the justice of that decision, founded as it is upon the violation of the principles of neutrality, established by the rules of international law which have been considered a definite accomplishment of civilization."

<sup>3</sup>Yet there were not lacking distinguished and influential public men who regarded the course of the Government as both injudicious and unpatriotic. Chief among these was Señor Luis Maria Drago, the well-known publicist, former minister of foreign affairs, and author of the Drago doctrine. In a carefully prepared statement published in *La Razón* on April 10, he declared: "As I advised our Government we should have followed the United States when it broke relations with Germany. Such action was justified by the German notification that it prohibited all ships from crossing a war zone arbitrarily established on a free sea against all conception of international law. The situation is aggravated to-day. The war between Germany and America is a struggle of democracy *versus* absolutism and no American nation can remain neutral without denying its past and compromising its

Events were soon to reveal on what a slender foundation this official neutrality rested. Before the end of April a German submarine sank the Argentine bark *Monte Protegido*. The latent but wide-spread hostility against Germany came quickly to a focus. Excited mobs paraded the streets of Buenos Aires demanding a declaration of war; the German legation and consulate and the offices of the subsidized newspaper *La Unión* were attacked. In a peremptory note the Government demanded satisfaction on the penalty of severance of relations. A belated promise of reparation was quickly followed, however, by the sinking of two other Argentine ships, the *Oriana* and *Toro*, on June 6 and 22. A further exchange of notes resulted in an apparent triumph of Argentina. Germany not only promised to modify her blockade to the extent of granting free passage of Argentine ships carrying foodstuffs, but also agreed to allow full indemnities for all losses suffered. On August 30, 1917, Berlin was informed that the Argentine Government considered the incident closed.<sup>1</sup>

Thanks to the revelations of the Department of State of the United States Government the hypocrisy and effrontery of the imperial German Government in this transaction have been revealed in all their enormity. On September 8, 1917, were published a number of intercepted telegrams sent by Count von Luxburg, German chargé d'affaires to Argentina, to the Berlin Foreign Office through the medium of the Swedish minister at Buenos future. How can Argentine break the bonds of solidarity with its Latin brothers and abandon its traditional policy to remain in an isolation which nothing would justify? We ought then to prepare to range ourselves as soon as possible with those who are opposing the oppression of an absolute government. We should constitute the material and moral union of this continent for the defense of law and democratic principles in international relations."

<sup>1</sup> A curious side-light is thrown on the character of Argentina's diplomatic "victory" by the revelations contained in the second instalment of the Luxburg dispatches, those revealed by Secretary Lansing on December 20, 1917. The dispatches of the German chargé would indicate that a confidential understanding existed between Luxburg and President Irrigoyen which provided that Germany would spare Argentine ships on condition that the President use his best efforts to prevent these vessels from entering the barred zone. This agreement was necessarily to be kept secret "on account of other neutrals and of military considerations." In justice to President Irrigoyen it is only fair to add that on the publication of these telegrams the Argentine minister of foreign affairs stated that they showed "a number of inaccuracies so surprising that no epithet would fit them, as they are at complete variance both in substance and form with the terms in which the negotiations were entered into, carried on and brought to a conclusion" (*Current History Magazine*, VII (second part), February, 1918, 322-3).

Aires. Although these dispatches have been frequently reprinted their historical importance warrants their inclusion here.

The first message reads:

May 19, 1917, No. 32. This Government has now released the German and Austrian ships in which hitherto a guard has been placed. In consequence of the settlement of the *Monte [Protegido]* case there has been a great change of public feeling. The Government will in the future only clear Argentine ships as far as Las Palmas. [Las Palmas is one of the Canary Islands, a possession of Spain.] I beg that the small steamers *Oran* and *Guazo*, January 31 [meaning, which sailed on this date] 300 tons, which are now nearing Bourdeaux, with a view to changing flags, may be spared if possible, or else sunk without a trace being left (*spurlos versenkt*).

LUXBURG.

The second message reads:

July 3, 1917, No. 59. I learn from a reliable source that the acting minister of foreign affairs, who is a notorious ass and Anglophile, declared a secret session to the Senate that Argentina would demand from Berlin a promise not to sink more Argentine ships. If not agreed to relations would be broken off. I recommend refusal, or, if necessary, calling in the mediation of Spain.

LUXBURG.

The third message reads:

July 9, 1917, No. 64. Without showing any tendency to make concessions postpone reply to Argentine note until receipt of further reports. Change of ministry probable. As regards Argentine steamers, I recommend either compelling them to turn back, sinking them without any trace, or letting them through. They are all quite small.

LUXBURG.

Cynicism could hardly have gone to greater lengths. The accredited representative of the German Empire, while enjoying the hospitality of a neutral and friendly country, deliberately urged the cold-blooded murder of Argentine citizens on the high seas in order that the disappearance of Argentine ships without trace might forestall diplomatic complications between the two countries.



*Resentment Followed Disclosures*

The popular resentment which followed the Luxburg disclosures was widespread and intense. The Argentines rightly felt that they had been both insulted and duped by the minister of an ostensibly friendly power; the real character of their diplomatic "triumph" in the submarine controversy was painfully apparent. The prompt disavowal by Berlin of Luxburg's actions did little to relieve the tension; on September 12 the German chargé d'affaires received his passports with the clear intimation that he was *persona non grata*. On the same night anti-German riots occurred in Buenos Aires, the German Club was set on fire, and a number of German houses, including the offices of *La Unión*, were destroyed. Three days later there was held a great public demonstration in favor of an immediate break with Germany. On September 20 the Senate by a vote of 23 to 1 passed a resolution in favor of severance of diplomatic relations, while the Chamber of Deputies on September 25, by a vote of 53 to 18, adopted a declaration of similar intent. It was everywhere assumed that the Cabinet and President would take immediate steps to bring Argentina in line with the United States and the Latin American nations united in common action against Germany. Nothing of the sort occurred. President Irrigoyen professed himself as fully satisfied with Germany's explanation of the Luxburg incident and intimated that he saw no reason to depart from a course of strict neutrality. A nation-wide railroad strike, temporarily paralyzing the economic life of the country, diverted popular attention from foreign affairs and conveniently absorbed the attention of the Government. By the end of October it was clear that Argentina would remain within the ranks of the neutral states of Latin America.<sup>1</sup>

Up to the present time no satisfactory explanation has been

<sup>1</sup> All of the British residents of Argentina as well as many others were convinced that German machinations and German money were behind the railroad strike. As was stated by the correspondent of the *London Times*: "There has existed, and still exists, in the minds of 99 out of every 100 men outside of the ranks of the strikers themselves, the conviction that German intrigue, German money and German designs were at the root of the strike. The coincidence between the declaration of both houses of the Argentine Congress in favor of a rupture of relations with Germany and the outbreak of a general strike was too marked, especially when the analogy of similar strikes at critical moments in Spain, in the United States and in Russia is taken into account." *The Times History of the War*, XV, 19 (1918).



advanced for President Irrigoyen's attitude, so out of harmony with that of the bulk of the thinking classes of Argentina. The statement has been made that his sympathies have inclined toward the cause of Germany. It is impossible to prove the charge, although the Luxburg revelations would seem to lend a certain color to this view. Again the suggestion has been offered that he deprecated any action which might imply that his country was merely following in the wake of the United States.<sup>1</sup> Finally in the absence of any definite data we are bound to assume that the President was merely obeying what he regarded as the dictates of patriotism and sound domestic policy when he threw the whole force of his influence in favor of the preservation of neutrality. Both as a private citizen and as chief of the Radical Party he had long been the advocate of a series of far-reaching social and economic reforms; he may well have been convinced that the absorption of Argentina's energies and resources in the world-wide conflagration would have indefinitely delayed the consummation of such a policy. The future will doubtless reveal the falsity of this parochial point of view; history will probably bear record that Argentina missed the golden opportunity of companionship with the great democracies of the world in the final conflict between despotism and liberty. Yet it is heartening to recall that the Argentine people, in so far as their voice was articulate, declared themselves unequivocally in favor of the cause of freedom and democracy.

## CHILE

The neutrality of Chile in the war was from the first looked upon as a foregone conclusion. A variety of circumstances conspired to keep her aloof from the struggle. With her outlook upon the

<sup>1</sup> President Irrigoyen is reported to have stated in an interview on September 26, 1917, "that Argentina can not be dragged into the war by the United States and the nation must take the place it deserves on the American continent" (*Christian Science Monitor*, October 1, 1917). On two different occasions he attempted to arrange for a congress of neutral Latin American states for the adoption of a uniform policy in regard to the war. On this point, as on many others, the Luxburg revelations shed a rather sinister light. For instance on August 1, the German minister wrote: "The President has at last made up his mind to conclude secret agreement with Chile and Bolivia regarding mutual rapprochement for protection *vis-à-vis* North America before the conference idea is taken up again." Only in Mexico did the idea of a Latin American congress meet with any great degree of favor.

Pacific she was furthest removed of all the Latin American powers from the center of hostilities; at least, such was the case after the two great naval engagements fought in South American waters in 1914. Though Chile possesses a merchant marine of respectable proportions, few if any of her ships were plying on the European run; hence no material interests were placed in jeopardy by the declaration of the barred zone and the policy of German ruthlessness. While her economic life was temporarily dislocated in the early days of the war, the tremendous demand for Chilean nitrates on the part of the Allies soon ushered in an era of prosperity. To many Chileans neutrality seemed both logical and profitable.

For our purpose the importance of the last four years of Chilean history lies in the gradual but none the less striking change in sentiment toward the two groups of belligerents. There can be little doubt that at the outbreak of the war the tide of popular feeling ran strongly in favor of Germany. The reasons are fairly obvious. German propaganda had probably taken deeper root in Chile than in any other South American country. The Chilean army had been trained largely by German officers; important posts in the higher institutions of learning had been filled by German scholars, while many Chilean teachers had completed their education in German universities. An industrious and fairly homogeneous German population, concentrated in the southern portion of the Republic, maintained affiliations with the Fatherland. Almost unlimited funds seemed available for the furtherance of the German cause. In the first months of the war the friends of Germany founded in Santiago, the capital, a Germanophile organ, *El Tiempo*. The so-called Chilean-German League (*Liga chileno-alemana*) organized by a certain Dr. Munich, kept up a continuous agitation. Finally, certain elements among the clergy whose interests have always been closely identified with the powerful Conservative party, more or less openly espoused the cause of the Central Powers.

As the larger issues of the war gradually unfolded themselves, a healthy reaction began to set in. To those familiar with the best traditions of the Chilean people this change in sentiment occasioned no surprise. The method of warfare employed by the Germans became increasingly repugnant to the educated classes. If the

Chilean army inclined in sympathy toward the Germans, the same was not true with the navy. The Chilean navy, trained according to English ideals of seamanship, with a long and honorable history reaching back to the exploits of Lord Cochrane in the Wars of Independence, was from the first pro-Ally. Naturally German submarine ruthlessness intensified this feeling. The decided stand taken by a number of sister republics raised the whole problem of continental solidarity. The entry of the United States into the war, with no thought of material gain or national aggrandizement, caused a profound impression and did much to dissipate lingering suspicion of the motives and policy of the Government at Washington.

### *Press Showed Changed Attitude*

This change in attitude is most clearly reflected in the press. By all odds the most important newspaper in Chile is *El Mercurio*, published daily both in Santiago and Valparaiso. During the first two years of the war its sympathies had on the whole inclined toward the Allies; when in the winter of 1917 the shadow of war was projected across the Atlantic, it took its stand unreservedly on the side of the enemies of Germany. On February 5, the day following the announcement of the rupture of diplomatic relations between the United States and Germany, *El Mercurio* declared that for all neutral nations the principles supported by the United States were of vital importance and that these nations can not without protest witness the employment of barbarous and inhuman methods of warfare. "The nations of South America, bound to the United States by historic bonds and by the intellectual relations which are being daily perfected, are to-day more than ever obliged to sustain the cause which President Wilson defends." Other prominent organs of the press, notably *La Nación* and *El Diario Ilustrado*, rallied to the same point of view.

A growing number of intellectuals expressed themselves in a similar vein. Professors Montaner and Guerra of the department of international law of the University of Santiago, publicly stigmatized Germany's submarine policy as a monstrous violation of international law. Professor Molina, the distinguished dean of the law faculty of Concepción, zealously defended the cause of the Allies and the United States. Examples of this attitude might be multiplied almost indefinitely.

The Chilean Government, keenly jealous of the honor and self-respect of the nation, made on February 8, 1917, a vigorous and dignified reply to Germany's announcement of unrestricted submarine warfare. "The acceptance by Chile of the measures adopted by Germany would be a departure from the course of strict neutrality which she has followed during the actual European conflict. Hence in regard to all her rights Chile reserves the liberty to claim respect for them at whatever moment an act of hostility is performed against her vessels."<sup>1</sup>

Thus while Chile remained officially neutral, her people can hardly be said to have remained passive spectators to the world drama. Through the fog of propaganda and misrepresentation the Chileans descried with increasing clarity of vision the real issues at stake. Toward the end the avowed apologists of German *kultur* dwindled to a negligible minority. If further proof of Chile's conversion were needed it could be found in the unrestrained, and in certain quarters almost delirious, joy with which the final victory and the signing of the armistice were acclaimed.<sup>2</sup>

## THE REMAINING SOUTH AMERICAN REPUBLICS

Of the tier of South American nations facing the Pacific, Perú is most closely bound to the United States by traditions of friendship and good will. In various international conferences she has always championed the cause of Pan American unity. It was no occasion for surprise therefore when President Pardo in his message to the Congress on July 28, 1917, proclaimed the adherence of Perú to the principles of justice and right set forth in President Wilson's war message. On September 8 the Senate declared that the international policy of Perú must be inspired by the principle of the solidarity of the American continent, in harmony with the ideals of international justice proclaimed by President Wilson. Partly in pursuance of this policy; partly as a result of Germany's failure to grant satisfactory reparation for the sinking of the Peruvian bark *Lorton* on February 5, 1917, Congress on October 5 passed a resolution severing diplomatic relations with Germany,

<sup>1</sup>W. S. Robertson, "Chile and the European War," *The Nation*, (New York) March 15, 1917.

<sup>2</sup>Compare, for example, the account of popular manifestations given in *El Mercurio* on November 12, 1918.

the vote being 105 to 6. Dr. Paul, the German minister, was handed his passports the same day. There can be no doubt that these acts clearly reflected the sentiments of the overwhelming majority of the Peruvian people. In fact numerous elements were in favor of a declaration of war against Germany. It is not improbable that had the war continued Perú would have entered the contest as a full belligerent.<sup>1</sup>

Ecuador, fronting like her southern neighbor, Perú, on the Pacific, was far removed from the area of hostilities. She possessed no merchant marine and hence was unaffected by the proclamation of the barred zone. Nevertheless, on December 17, 1917, Ecuador broke off diplomatic relations with Germany. This step was taken partly as a protest against the German methods of warfare in general and more specifically against the improper conduct of a German agent, Herr Müller, who sought to impose upon the Ecuadorean Government his recognition as chargé d'affaires; partly through the desire to proclaim Ecuador's allegiance to the principles of Pan American solidarity.

Bolivia is one of the two land-locked countries of South America. No national interests were imperiled therefore by Germany's submarine policy. But on the severance of relations with Germany by the United States the Bolivian minister of foreign affairs stated on February 5, 1917, that "the Government of Bolivia considers entirely proper the noble and lofty attitude assumed by the Government of the United States, and which is in accord with the rights of neutral countries to safeguard their own interests and those of civilization and humanity. The Government of Bolivia therefore frankly indorses the stand taken by the United States." In less than a week after the declaration of war by the United States the Bolivian Government handed the German minister his passports. As in the case of Bolivia's neighbor, Perú, the official attitude was in entire harmony with the wishes of the educated classes of the country.

### *Uruguay's Remarkable Record*

Although the smallest of the South American republics, Uruguay is rightly regarded as one of the most progressive and enlightened

<sup>1</sup>Cf. Juan Bautista de Lavalle, "The Severance of Diplomatic Relations between Perú and Germany," *American Journal of International Law*, July, 1918.



members of the Latin American family of nations. While the cultural bonds between Uruguay and the Latin states of Europe, especially France, have always been close and intimate, the foreign policy of Uruguay, owing to her highly vulnerable position as a buffer state between Argentina and Brazil, has necessarily been dominated by South American rather than international considerations. At the same time Uruguayan statesmen have been quick to recognize the larger obligations of Pan American co-operation. In no country have appeals for a more vital community of interests among the republics of the New World met with a more ready response.

From the very outbreak of the war the sympathies of the Uruguayans were overwhelmingly pro-Ally. The entry of the United States into the struggle was hailed with great satisfaction; on June 16, 1917, the Uruguayan Government issued its now famous decree defining its attitude toward the American belligerents. After reciting that "the Government of Uruguay has proclaimed the principle of American solidarity as the criterion of its international policy," the decree set forth that "no American country, which in defense of its own rights should find itself in a state of war with nations of other continents will be treated as a belligerent." Perhaps the best commentary on the spirit animating this decree was the enthusiastic welcome accorded the United States squadron on its visit to Montevideo at the end of July, 1917.

From this benevolent attitude toward the foes of Germany to the severance of relations was but a step. Although Uruguay, unlike her neighbor Argentina, had no definite act of Germany against her citizens or their property to resent, public opinion was not satisfied with the maintenance of even a technical neutrality. On the other hand, as long as Brazil's attitude remained undefined there existed the possibility that the severance of relations might be followed by an armed raid of Germans from the Brazilian state of Rio Grande do Sul. By the end of summer all reason for hesitancy had vanished; on October 7, 1917, a joint resolution of both houses of Congress in favor of the rupture of relations was adopted by 106 votes to 6. From the moral point of view this act was freighted with unusual significance. With no national interest jeopardized, at the behest of no other power, this

proud-spirited and highly cultured nation voluntarily abandoned neutrality both as a protest against Germany's method of waging war and as an evidence of her belief in the principles of democracy and American solidarity.

The three remaining South American republics—Paraguay, Colombia and Venezuela—held themselves entirely aloof from the war. The first of these countries, land-locked in the heart of the continent, was, relatively speaking, but little affected by the war. Although the sympathies of the educated classes inclined toward the Allies and the United States, the Government saw no reason for a declaration in favor of either group of belligerents. In Colombia the still smoldering resentment against the United States for her share in the train of events leading to the creation of the Republic of Panamá precluded any possibility of a departure from neutrality. In Venezuela German intrigue and propaganda were unusually active among the official classes; the attitude of President Gómez may be gauged by his arbitrary suppression in August, 1917, of two newspapers favorable to the Entente and the United States. But in both of these northern republics, as elsewhere in South America, public opinion, in so far as it existed, showed itself in general opposed to the policies and methods of Germany.

### THE CARIBBEAN REPUBLICS

Of the six Central American Republics, five declared war against Germany. These were Panamá, Guatemala, Honduras, Nicaragua and Costa Rica. One, Salvador, maintained an attitude of benevolent neutrality toward the United States and the Allies. In view of the close economic and even political relations existing between certain of these countries and the United States a strictly neutral position was hardly to be expected. Yet the alacrity and eagerness with which all but one of these nations aligned themselves with the foes of Germany refute the charge that they were subjected to pressure and untoward influence.

Panamá, like Cuba, defined her position immediately upon the entry of the United States into the war. On April 7, 1917, the Panamá Congress declared war on Germany. In a proclamation to the people of Panamá issued the same day the President declared: "Our indissoluble duty in this tremendous hour of history

is of a common Ally, whose interests and existence as well are linked indissolubly with the United States. As the situation creates dangers for our country, it is the duty of the Panaman people to co-operate with all the energies and resources they can command for the protection of the canal and to safeguard national territory."

Guatemala, despite the activities of German emissaries who swarmed over the frontier from Mexico, broke off diplomatic relations with Germany on April 27, 1917: this act was subsequently interpreted by President Cabrera as a declaration of war. It could hardly have been less. In a statement presented to Secretary Lansing by the Guatemalan minister, announcing the severance of relations, the latter declared: "Guatemala takes the greatest pleasure in offering to the United States of America her territorial waters, her ports and railroads for use in common defense, as also all elements which may be available for the same purpose."

Honduras closely followed the course adopted by her neighbor Guatemala. Relations with Germany were broken on May 17, 1917; on July 19, 1918, war was formally declared. Nicaragua took the same steps on April 18, and May 8, 1917; Costa Rica on September 21, 1917, and May 23, 1918. This action on the part of Costa Rica is the more worthy of note as the present administration has not been recognized by the United States.

Although Salvador has been technically classed as a neutral the Government on various occasions expressed its sympathy with the cause of the Allies and the United States. Of special significance is the note of August 24, 1917, in which the minister of foreign affairs stated that the Government of Salvador would permit the vessels of the United States to enter or remain in Salvadorean ports irrespective of their condition of armaments.

Of the three Caribbean republics, Cuba as we have seen, was an active participant in the war. Haiti declared war on Germany July 12, 1918. During July, 1917, the Dominican Republic withdrew the exequaturs of the German consular service in that country. As Germany was without diplomatic representation this action has been generally regarded as tantamount to a severance of relations.

## MEXICO

At first sight the attitude of Mexico toward the great war and its issues seems something of an enigma. Had our southern neighbor taken counsel from the dictates of enlightened self-interest she would have associated herself with the Allies and the United States at least to the extent of adopting a policy of benevolent neutrality. So it seems at least to the disinterested observer. She had just emerged triumphant from a revolution the avowed purpose of which was to destroy an autocratic and tyrannical government. A declaration of sympathy toward the Allies and the United States would not only have been in harmony with her professed ideals but would have paved the way for an amicable solution of certain embarrassing financial and economic problems. Had Mexico severed relations with Germany she could at once have enjoyed the privileges and financial benefits from which neutrals were necessarily debarred.

But Mexico chose otherwise. From the first her Government elected to follow the course of neutrality. What part a latent but not less real suspicion of the United States played in this decision it is impossible to estimate. The official explanation was to the effect that the nation needed to conserve all its energies for reconstruction after over half a decade of revolution. With such a point of view, if loyally adhered to, other nations could properly have no quarrel. Unfortunately the Government of Mexico was responsible for certain acts and policies which could easily have been interpreted as inimical to the Allies and to the United States. A case in point was President Carranza's proposal of February 11, 1917. With the ostensible purpose of hastening the advent of peace, he suggested that an embargo be placed by neutral nations on all supplies being sent to the belligerents. It is obvious that the adoption of such a policy would have been disastrous to the Allies. As is well known the refusal of the United States as well as the chief Latin American powers to lend countenance to this project caused its abandonment.

The extent and virulence of German propaganda in Mexico, especially after the United States entered the war, shed a somewhat sinister light on the attitude and professions of the Mexican Government. The suspicion that Señor Carranza and several

members of his cabinet had pro-German leanings was heightened by the publication of the infamous Zimmermann dispatches in which Mexico was invited to attack the United States as an ally of Germany. The failure of Mexico to resent this invitation, which if acceded to would have spelled irretrievable ruin, was to say the least disquieting. It was not surprising that in the first few months following our entry into the war the tension between the United States and Mexico became increasingly acute. There were not lacking pessimists who predicted an open break between the two republics.

Fortunately contrary influences were at work. Mr. Fletcher, the American ambassador, was untiring in his efforts to allay irritation and promote more friendly feelings. At the same time he endeavored to interpret to the Mexicans the motives of the United States in the great war. As was to be expected, German propaganda overshot the mark and a reaction set in. The Mexican Government on several occasions explained that its attitude was not dictated by any hostility toward the United States. Finally by the summer of 1918 public opinion began to veer strongly away from Germany. The visit at this time of a delegation of prominent newspaper men to the United States resulted in a marked decline of Germanophile influence. The majority of the important newspapers of the capital now openly championed the cause of the Allies. In fact, the most widely-read member of the metropolitan press, *El Universal*, edited by Señor F. F. Pallavicini, had from the first recognized the real issues of the war and at all times did yeoman's service in behalf of the Entente and the United States. The approaching collapse of the Central Powers brought the activities of the German propagandists to a close; the German minister, the notorious Von Eckhardt, left Mexico under circumstances which point to pressure from the Mexican Government. With the signing of the armistice the last stronghold of German influence and intrigue in the New World had crumbled.



## THE UNITED STATES AND LATIN AMERICA

It would be an error to pass judgment on Latin America's share in the war merely on the basis of the material assistance rendered the United States and the Allies. It will freely be conceded that neither the shipments of food stuffs—extensive as they were—nor the military and naval aid rendered, especially by Brazil and Cuba, were determinant factors in the final triumph over Germany. Yet the action of 13 of the Latin American states, whether they actually declared war against Germany or merely severed diplomatic relations, was not without tangible results. It tended to complete the moral and diplomatic isolation of the German Empire; it helped to reveal and to neutralize the force of German propaganda and intrigue; it contributed to the undoing of the work of years of economic penetration. But these results, whatever their relevancy or importance, tell only part of the story.

Time alone can reveal the full effects of the great war on the destiny of the states of Latin America. Yet, whatever the future may have in store, it is already abundantly clear that a majority of our sister republics will never completely revert to their prewar status in either national or international life. As to the people of the United States, the last two years brought also to our southern neighbors a period of anxious heart-searching and rigorous self-appraisal. The reaction with them as with us has been salutary. There have come a graver sense of national responsibility, a more sober consciousness of national dignity. The public conscience has been aroused; public opinion has been invested with a power and influence hitherto unsuspected. Possibly the most important result of this quickening of the currents of national life has been the strengthening of those forces which make for a more real democracy.

The war has not only revealed the republics of the New World to themselves; it has revealed them to each other. Pan Americanism has ceased to be a mere rallying point, a diplomatic shibboleth. Under the stress of war it became a dynamic force. The American nations became acutely conscious of a common heritage of ideals of democracy and liberty which the war had imperiled. In this fellowship of republics the United States necessarily played a determinant part. As long as she remained neutral no other

state would have incurred the risk of breaking with Germany, however great the provocation. But with the entry of the United States into the struggle in defense of democracy the situation changed; her prestige and influence were enormously enhanced; she now stood embattled in front of her sister republics to fight the common enemy. By thus enormously enlarging the community of interests between the United States and the remaining republics of the western hemisphere the war has greatly strengthened the bonds of Pan American solidarity and invested the Monroe doctrine with a new and vital significance. It is now possible for the doctrine to become American in the full sense of the term drawing its sanction and support from all the republics of the New World.

But Latin America has not only been drawn into a closer comradeship of democracy with the United States; she has entered upon a new relationship with Europe as well. Who could have prophesied half a decade ago that the Republics of Uruguay and Perú would tender the use of their ports to European monarchies; that nine Latin American states would be represented at the Peace Conference at Paris?<sup>1</sup> To these states is no longer applicable the half-contemptuous charge made a few years ago that they stand on the margin of international life. The traditional New World isolation in South as well as in North America is a thing of the past. A group of our sister republics emerge from the war with their authority and prestige greatly augmented. They have a pride and satisfaction which spring from participation in a great and lofty enterprise. They are prepared to accept their new international responsibilities and acquiesce in the new international order. The appeal for a League of Nations evokes a generous response from those states which have at length attained their political majority.

To us in the United States the new dispensation in Latin America has brought a full quota of opportunities and responsibilities. While we are perhaps too prone to embrace the former and ignore the latter, it is natural and fitting that we should view the future with optimism. At no time have the relations between

<sup>1</sup>The Latin American states represented at the Peace Conference and signing the German treaty were: Bolivia, Brazil, Cuba, Ecuador, Guatemala, Haiti, Honduras, Nicaragua, Panamá, Perú and Uruguay.

North and South America been as cordial as they are at the present moment. Points of contact, both cultural and economic, are rapidly multiplying. Distinguished South American diplomats and publicists, such as Brazil's foremost historian, Oliveira Lima, are loyally carrying out the self-appointed task of interpreting to Latin America the rôle of the United States both in the war and at the Peace Conference.<sup>1</sup> New horizons are opening to our bankers and exporters; the enormous trade expansion brought about by the war seems in a fair way to become permanent. But if American influence is to increase and bear fruit in still closer recognition of the important place recently won by certain of our sister republics in the comity of nations, in our zeal for trade and commerce we must cease to regard Latin America as a mere geographical expression on the maps of our exporters. The attitude of patronizing condescension, which still lingers in certain quarters, must everywhere give way to an appreciation and sympathy based on wider knowledge. Otherwise much of our zeal for "linking the Americas" will come to naught.

<sup>1</sup>Cf. "O Problema do Paz e o papel dos Estados Unidos," by M. de Oliveira Lima, *A. B. C.*, (Rio de Janeiro), March 1, 1919.

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## Labor in the Treaty of Peace

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# CONTENTS

I.	Before the War. . . . .	271
II.	The Peace Conference Appoints Commission. . . . .	280
III.	The Commission Reports to the Conference. . . . .	283
IV.	Adoption of International Labor Guaranties. . . . .	293
V.	Peace Conference Adopts Text. . . . .	300
VI.	Text of the Labor Section of the Treaty. . . . .	310
VII.	Germany's Effort to Change the Provisions. . . . .	324
VIII.	Preparations for the Conference. . . . .	338

*"I need scarcely remind you of the urgency of the work of labor amelioration, for it is known to all that new thoughts are surging up among us and about us and that the world as a result is in a ferment. Nor need I dwell on its importance, an importance second only to the prevention of war, to which we have already given our hand and seal. Our scheme will, we think, give strength to the League of Nations by enabling it to take root in the daily life of peoples. It will, we believe, give hope and health to those whose lives are scarred by toil and sorrow, and on behalf of the Commission I commend it to your favorable consideration."*—GEORGE NICOLL BARNES, reporter of the Commission on Labor Legislation to the Plenary Session of the Peace Conference, April 11, 1919.

# LABOR IN THE TREATY OF PEACE

## I. BEFORE THE WAR.

On May 10, 1881, the Swiss Government in an instruction to its diplomatic agents at Berlin, Vienna, Brussels, London and Rome directed them to inquire whether the Governments were disposed to enter upon negotiations for the legal protection of labor. The invitation was not then cordially received, but the passage of the German insurance laws of 1884 shortly after aroused general interest in welfare legislation. March 15, 1889, Switzerland renewed the suggestion; and this time, with German interest in the matter still further stimulated by a strike in the Ruhr district, better success was attained. The Governments of Germany, Austria, Hungary, Belgium, Denmark, Spain, France, Great Britain, Italy, Luxemburg, the Netherlands, Portugal, Russia, Sweden and Norway were approached. Great Britain and Italy reserved; Russia refused; Germany, Denmark, Spain, Sweden, and Norway did not reply; the others accepted. February 5, 1890, a formal invitation was issued by Switzerland to an international conference to be held at Berlin, March 15-29, 1890. Simultaneously two rescripts of the German Emperor appeared referring to the arrangements. All the states originally invited by Switzerland, with the exception of Russia, were represented at the conference, which, however, resulted only in the formulation of a series of opinions.

Seven years later an international conference on labor legislation was held under private auspices at Zurich. The session of August 23-28, 1897, was followed by one at Brussels, September 27-30. A third private gathering was assembled at Paris, July 25-28, 1900, and at that time the International Association for Labor Legislation was organized. Chiefly under the direction of Stephan Bauer, it has for two decades been an important factor in the international labor situation. The association met in the month of September at Basel in 1901, at Cologne in 1902 and at Basel in 1904.



*Private Action Encourages Official Action*

This private initiative had stirred public opinion, the influential membership of the association having increased from 1,608 in 1901 to 3,080 in 1904. Yielding to this marshaling of public opinion and largely due to the efficient officers of the association, the Swiss Government made another effort at official action. May 8-17, 1905, an International Conference on the Protection of Labor was held at Bern. It occupied itself particularly with formulating conventions respecting the use of white phosphorus in the match industry and the employment of women in night-work. Projects were adopted and the next year were formally signed at a conference held in Bern, September 17-26. Germany, Austria-Hungary, Belgium, Denmark, Spain, France, Great Britain, Italy, Luxemburg, the Netherlands, Portugal, Sweden and Norway signed the convention respecting women. Germany, Denmark, France, Italy, Luxemburg, the Netherlands and Switzerland signed the convention respecting white phosphorus. Adhesion to both, however, became very general before the war, resulting in the passage of appropriate legislation in practically all countries.

On the day when the conventions were signed the International Association for Labor Legislation began its fourth congress at Geneva. At the next congress, held at Lucerne, September 28-30, 1908, the Association had acquired sufficient prestige for the Governments to participate in its deliberations. Germany, Prussia, Saxony, Baden, Austria, Belgium, Denmark, France, Hungary, Italy, Luxemburg, the Netherlands, Norway, Sweden, Switzerland, the United States of America and the Holy See sent official delegates. The questions discussed at the session were numerous and included reconsideration of the prohibition of night-work for women and of the use of white phosphorus in the match industry. Among the other subjects discussed were the prohibition of night-work for young women, home work, insurance of foreign workmen, lead and other industrial poisoning, legal limitation of the work day, regulation of work by children, execution of protective labor laws and the regulation of labor in compressed air. The association met in 1910 and 1912.

These meetings of the association paved the way for a third official conference which was held at Bern in September, 1913.

That conference was held while the political tension was acute and was considered a relative failure. It decided upon drafts of international agreements to prohibit the industrial night-work of workers under sixteen and to establish a maximum working day of ten hours for women and young persons. The work of the conference proceeded in large part from memoranda and drafts submitted by the International Association for Labor Legislation, which were results of years of co-operation on the part of inspectors of labor, labor organizations, technical experts and public spirited employers. The final protocol of this conference reads as follows:

The delegates of the Governments of Germany, Austria-Hungary, Belgium, Spain, France, the United Kingdom, Italy, Norway, the Netherlands, Portugal, Sweden, and Switzerland met in Bern on September 15, 1913, at a conference to consider the regulation of the two questions of labor legislation contemplated in the circular note of the Swiss Federal Council, dated January 31, 1913. The undersigned delegates have agreed to request the Swiss Federal Council to present to the Governments concerned—with a view to such diplomatic negotiations as may seem good to them—the following proposals for the conclusion of international conventions, being the result of the deliberations of the conference.<sup>1</sup>

### *War Prevented Diplomatic Conference*

It was planned to hold a conference of diplomats in September, 1914, to prepare the formal conventions decided upon the previous year. "The war mercilessly intervened; its work of destruction was a blow at the most important foundation that had hitherto been laid for the protection of labor, a blow struck at the very existence of labor legislation and, what is equivalent, its enforcement."<sup>2</sup>

In these developments organized labor had participated very slightly. At the 1912 meeting the workmen's organizations expressed their views only at the preliminary discussion of the resolutions of the International Association for Labor Legislation, and were comparatively slightly represented. The German section of the association had only six representatives of labor organizations among twenty-four delegates, the French section two among twenty-two delegates, and the British four among

<sup>1</sup> Stephan Bauer, *International Labor Legislation and the Society of Nations*, 133 (U. S. Department of Labor, Bulletin No. 254).

<sup>2</sup> *Op. cit.*, 11.

eleven. The resolutions and the experience of the labor organizations were, however, familiar to both the association and the diplomatic conferences. The association has had in Professor Stephan Bauer of Basel a most efficient and devoted secretary-general, under whose direction many excellent scientific monographs have been published. For some years it has published a monthly bulletin which gives the facts relating to its work from all parts of the world under five heads: international labor protection, national labor protection (laws, ordinances and parliamentary proceedings), resolutions of national and international congresses, and bibliography.

"The first phase of the war in almost all the belligerent countries led not only to a disregard of the labor protection agreement of 1906 with regard to night-work of women, but also to a breach of the national protective labor regulations relating to Sunday work and (to the exploitation of) female and juvenile labor. After the first year of war, however, a change began to make itself felt almost everywhere. Even in the war industries, where the glamour of higher wages increased so greatly the danger of bodily exhaustion from overwork, the breach of the regulations for the protection of labor was finally recognized to be an economic and technical blunder, for the overwork resulted in an obvious decrease of efficiency. Official inquiries in England made this so clear that on the basis of these experiences the Government of the United States, on the outbreak of war, expressly insisted upon the maintenance of existing labor standards. Thus these war experiences, collected with great care by technical experts, physicians and factory inspectors, became a warning for introspection on the part of war industry and state governments."<sup>1</sup>

#### *American Proposal for Labor Conference*

It was the experience, of the war which directed attention to the desirability of providing definite international machinery for the improvement of working conditions on a larger scale than ever before. The American Federation of Labor was first in the field with the suggestion eventually successful. At its session in 1914, the following resolution was adopted:<sup>2</sup>

<sup>1</sup> *Op. cit.*, 11.

<sup>2</sup> Labor and the War. American Federation of Labor and the Labor Movements of Europe and Latin America. Page 9-10.

Whereas, The whole civilized world is torn by the awful titantic struggle which is now devastating continental Europe, disturbing the commercial and industrial conditions of the whole world, submerging the nations of Europe in the shadows and horrors of war, touching sharply our sympathy and stirring the depths of our emotion; and

Whereas, All history has proved that trial by conflict does not establish justice as its foundation of those agencies which seek to regulate the relations between men that justice may prevail; and

Whereas, Political experience shows that the welfare and the interests of all the people are promoted in proportion as they are represented in the government and the government is responsive and responsible to them, it is necessary that the workers have a will and an effective voice in determining international relations; and

Whereas, The workers of every age had special and imperative reasons for advocating and endeavoring to secure provisions insuring the maintenance of peace with justice, since upon them fall the burdens of actual warfare and the real fighting in the ranks, while the hardships and the suffering accompanying war following it are felt most keenly and most palpably by them and those dependent upon them, and the costs of war ever fall disproportionately upon their already inadequate resources; and

Whereas, The workers of all countries have been leaders in protesting against injury and violence to human life in peace as well as in war, and against the cruelty and the waste of needless war, and they have steadfastly endeavored to rouse the general public to realize the enormity of war, thereby rendering public opinion alert and sensitive to the responsibility of all men for the existence of war, and, moreover, the workers have been inspired to assist in constructive movement for the prevention of war, whereby peace may be maintained with justice; and

Whereas, The organized wage workers of the civilized nations have established fraternal relations for the purpose of binding together the trade unions of all countries for the promotion of common interests and ideals, and by frequent and regular communication, co-operation and exchange of representatives have brought about an understanding and sympathy between the organization and their members in the various countries, relations which are necessary for the inception and the continuance of peace; and

Whereas, Out of the experience of these workers, out of their burden bearing and their wrongs, out of their hopes and their victories, have developed principles of justice and the conviction that the establishment of these principles as practical forces in the lives of the workers is conditioned upon establishing dependable representative agencies for the realization of purposes and agreements determined upon; therefore, be it



Resolved, That we, the delegates of the organized labor movement in America, express and hereby convey to the organized labor movements of Europe fraternal greetings and our sympathy with their great suffering and distress, and that we express our most earnest hope for the early cessation of the terrible warfare now desolating the lands, destroying the families and impoverishing the nations of our fellow-workers; and be it further

Resolved, That we desire that fraternal relations between national labor movements shall continue with no more interruption than shall be absolutely unavoidable during the war, to the end that our regular intercourse and co-operation shall be resumed immediately at the close of the war; and be it further

Resolved, That the convention of the American Federation of Labor, in view of the general Peace Congress which will no doubt be held at the close of the war, for the purpose of adjusting claims and differences, hold itself in readiness and authorize the Executive Council to call a meeting of representatives of organized labor of the different nations to meet at the same time and place, to the end that suggestions may be made and such action taken as shall be helpful in restoring fraternal relations, protecting the interests of the toilers and thereby assisting in laying foundations for a more lasting peace; and be it further

Resolved, That copies of these resolutions be sent to the International Federation of Trade Unions, to all national trade union centers throughout the world and to the President of the United States; and be it further

Resolved, That the official views of the organized labor movements enumerated be ascertained and their co-operation invited in order to carry into effect the purposes of the resolution.

### *European Labor Adopts American Proposal*

This proposal came up for Allied discussion in Paris on May 1, 1916. British, Italian, Belgian and French delegates from labor organizations and the secretary general of the French Confédération générale du travail were appointed a committee to prepare the program for the international labor conference to be held at Leeds, England, in the following July. At that time resolutions were passed which read in part as follows:

The conference declares that the peace treaty which will terminate the present war and will give to the nations political and economic independence should also insure to the working class of all countries a minimum of guaranties of a moral as well as of a material kind concerning the right of coalition, emigration, social insurance, hours of labor, hygiene and



protection of labor, in order to secure them against the attacks of international capitalistic competition.

#### INSPECTION AND STATISTICS

(b) An international commission shall be established for the purpose of supervising the application of the laws concerning social insurance, labor migrations, hours of labor, hygiene and accident prevention. This commission shall be instructed to report upon all questions and grievances submitted to it on the matters within its purview and its opinion shall be communicated to all concerned. On the demand of one of the parties, any point of conflict shall be submitted to an international court of arbitration.

It shall likewise be the duty of this commission to help on the preparations for the organization of future conferences which the Governments of the various countries may convoke for the purpose of amending and developing labor legislation.

(c) There shall be established an international labor office which shall co-ordinate and consolidate the various inquiries, studies, statistics and national reports on the application of the labor laws; it shall make an effort to create uniform methods of statistics, secure comparative reports of international conventions, prepare international inquiries, and study all those questions which refer to the development and application of the laws concerning accident prevention, hygiene and safety work.

The office established by the International Association for Labor Legislation may be put into use for the carrying out of this program, in which work the international labor secretary will co-operate.<sup>1</sup>

At Leeds, M. Jouhaux, secretary general of the Confédération générale du travail, was made general corresponding secretary for the realization of these resolutions, with headquarters at Paris. The Leeds resolutions were sent out by his office to all national trade union federations and all central labor organizations for the individual trades in a circular of October 31, 1916. Scandinavian federations of labor forwarded it the following month to the International Federation of Labor, which had its headquarters at Berlin. This federation sent a new outline of "peace demands" of its own to national federations of labor unions on February 15, 1917, and the following June it was decided at Stockholm to take up this program at a conference to be called at Bern on October 1, 1917, under the auspices of the Swiss federation of labor. This

<sup>1</sup> *Op. cit.*, 123-125.

Bern conference was attended by representatives of the national federations of labor of Germany, Austria, Hungary, Bohemia, Bulgaria, Denmark, Norway, Sweden, the Netherlands and Switzerland. Among the resolutions unanimously approved on October 4 were the following:

#### X. ENFORCEMENT OF PROTECTIVE LABOR LEGISLATION

(e) The International Association for Labor Legislation shall explicitly be recognized in the peace treaty as the medium for the promotion and enforcement of international protective labor legislation. The International Labor Office maintained by this association shall collect and publish in the three principal languages all sociopolitical material, such as statistics, social insurance and labor laws, important decrees and order, etc., supervise the enforcement of sociopolitical agreements incorporated in international treaties, remain in constant communication with the central labor offices or Government departments charged with the duties of labor offices, prepare on request opinions on various matters relating to sociopolitical legislation, undertake the preparation and direction of international investigations in this field, and make studies of everything relating to the development and application of social legislation. The International Labor Office shall in particular act as intermediary in the quick exchange of labor market statistics among the various countries.

(f) The International Federation of Trade Unions shall be granted representation in the International Labor Office.

(g) The International Labor Office shall periodically convoke international congresses for the promotion of labor and social legislation to which the signatory states shall send official representatives. The signatory Governments shall bind themselves to aid in the realization of the resolutions of these congresses.

(h) The costs of maintenance of this office shall be borne by the signatory states.<sup>1</sup>

#### *Labor and Government in War*

The political significance of negotiations with organized labor was conspicuous in Great Britain and the United States. The British Government found it necessary to exempt men in certain occupations from military service early in the war. The exemptions were the subject of negotiations between the Government and the trade unions, resulting in a list of certified occupations. Tribunals for determining the liability to military service were

<sup>1</sup> *Op. cit.*, 129.

established and late in 1917 the question of an increased draft on the labor unions for men became important. As a consequence a conference on man power was assembled in January, 1918, at which cabinet ministers negotiated with the representatives of labor to meet the conditions due to the exigencies of war. In advance of this conference, and to an extent as a basis for its negotiations, the British labor movement voted a very complete memorandum on war aims at a special conference held on December 28, 1917.<sup>1</sup>

This memorandum was notable in that it expressed opinions concerning the general statement to follow the war, and because Premier Lloyd George's speech of January 5, 1918, and President Wilson's address of January 8, both of which embodied the substance of the 14 points on which peace negotiations were actually based, were in substance responses to it.

In the United States the American Federation of Labor negotiated with the Government for the provision of men for various war industries. An American labor commission was sent to Europe early in the war. In August, 1918, Samuel Gompers, president of the American Federation of Labor, undertook the leadership of the delegation to the countries of the Allied and Associated Powers. He effectively advocated the program, which the federation had been urging since 1914, for an international labor conference to be held in connection with the peace conference. This was, however, only a part of the proposals which he presented to the Interallied Labor and Socialist Conference which met in September at London. Among the fundamental recommendations presented by Mr. Gompers and his fellow American delegates to that conference were a dozen or more proposals which were later to be revised and presented officially at Paris.

<sup>1</sup> War Aims of Belligerents, 118-124 (*A League of Nations*, I, No. 3).

## II. PEACE CONFERENCE APPOINTS A COMMISSION

The Peace Conference at Paris began formally on January 18, 1919. The armistice with Germany had been signed the previous November. From mid-December until mid-January the Supreme War Council had been actively preparing for the conference, and had gradually been transforming itself into the Supreme Council of the Principal Allied and Associated Powers, which undertook the guiding of work in the conference. The second plenary session of the Peace Conference itself on January 25 passed the following resolution:

That a Commission, composed of two representatives apiece from the five Great Powers, and five representatives to be elected by the other Powers represented at the Peace Conference, be appointed to inquire into the conditions of employment from the international aspect, and to consider the international means necessary to secure common action on matters affecting conditions of employment, and to recommend the form of a permanent agency to continue such inquiry and consideration in co-operation with and under the direction of the League of Nations.

### *Commission of Conference Organized*

The representatives of powers with special interests held a meeting January 27, 1919, to determine their representatives on the Commission. After a preliminary discussion of the subject, the session was suspended and on its resumption Paul Hymans (Belgium) described the result of the exchange of views among the delegates as follows:

We have sought to reach an agreement, by means of private conversations, in regard to the four following Commissions: Commission on the League of Nations; Commission on Ports; Commission on International Legislation on Labor; Commission to inquire into the Responsibility for Crimes committed during the war.

As a result of the conversations which have taken place, there are two Commissions in regard to the composition of which there appears to be agreement, and we can thenceforward eliminate the two following questions from our deliberations: the Commission on the Responsibility for Crimes committed during the war, and the Commission on International Legislation on Labor. . . .

As regards the composition of the Commission to study International Legislation on Labor, we propose to put down the names of the following

Powers: Belgium, Serbia, Cuba for the South American group, Poland and the Czecho-Slovak Republic. The Serbian Delegates, however, have been good enough to state that they agreed to yield their place to Belgium, which, in view of the position which she holds in the industrial and commercial world, may be considered from that point of view as a Great Power. Belgium would therefore have two seats.<sup>1</sup>

The Commission was appointed as follows:

*United States of America:* Mr. Samuel Gompers, president of the United States Federation of Labor; Hon. E. N. Hurley, president of the United States Shipping Board. (Substitutes: Hon. H. M. Robinson, Dr. J. T. Shotwell, professor at Columbia University.)

*The British Empire:* The Rt. Hon. G. N. Barnes, M. P., member of the War Cabinet. (Substitute: Mr. H. B. Butler, C. B., assistant secretary, Ministry of Labor.) Sir Malcolm Delevingne, K.C.B., assistant under-secretary of state, Home Office.

*France:* Mr. Colliard, minister of labor. (Substitute: Mr. Arthur Fontaine, counsellor of state, Director of Labor.) Mr. Loucheur, minister of industrial reconstruction. (Substitute: Mr. Léon Jouhaux, general secretary of the Confédération Générale du Travail.)

*Italy:* Baron Mayor des Planches, hon. ambassador, commissioner-general for emigration. Mr. Cabrini, deputy, vice-president of the Supreme Labor Council. (Substitute: Mr. Coletti.)

*Japan:* Mr. Otchiai, envoy extraordinary, minister plenipotentiary of his Majesty the Emperor of Japan at The Hague. Mr. Oka, formerly director of commercial and industrial affairs at the Ministry of Agriculture and Commerce.

*Belgium:* Mr. Vandervelde, minister of justice and of state. (Substitute: Mr. La Fontaine, senator.) Mr. Mahaim, professor at Liege University, secretary to the Belgian Section of the Association for the Legal Protection of Workmen.

*Cuba:* Mr. de Bustamante, professor at Havana University. (Substitutes: Mr. Raphael Martinez Ortiz, minister plenipotentiary; Mr. de Blanck, minister plenipotentiary.)

<sup>1</sup> Treaty of Peace with Germany. Hearings before the Committee on Foreign Relations, United States Senate, 305-306. (66th Cong., 1st sess., Sen. Doc. No. 106.)



*Poland:* Count Zoltowski, member of the Polish National Committee, afterward replaced by Mr. Stanislas Patek, counsellor of the Court of Cassation. (Substitute: Mr. François Sokal, director-general of labor.)

*Czecho-Slovak Republic:* Mr. Benès, minister for foreign affairs, afterward replaced by Mr. Rudolph Broz.

The following were appointed officers of the Commission:

President, Mr. Samuel Gompers (U. S. A.);

Vice-Presidents: The Rt. Hon. G. N. Barnes, M.P. (British Empire), Mr. Colliard (France);

General Secretary, Mr. Arthur Fontaine (France);

Assistant General Secretary, Mr. H. B. Butler (British Empire);

Secretaries: Baron Capelle (substitute, Count de Grunne), Belgium; Mr. di Palma Castiglione, Italy; Mr. Oyster, U.S.A.; Mr. Yoshisaka, Japan.

### III. THE COMMISSION'S REPORT TO THE CONFERENCE

The Commission in beginning its work received proposed declarations of principle from a number of delegations. Most of them seem to have related chiefly to declarations as to labor guaranties. The British plan and the French proposals related to permanent international organization.

The British plan was adopted as a basis of work and the character of the permanent organs was determined at the seventh meeting of the Commission on February 12 by the adoption of Article 4 of that draft. This provided that in labor conferences representatives of the Governments, the employers and the workers should be entitled to speak and vote as individuals rather than as national units. "This introduced an entirely new principle into the constitution of international conferences with power to draw up conventions binding on the states represented," said the communique respecting the seventh meeting. "Hitherto the delegates present at such a conference have represented the Governments only and the voting had always been by nations. It was felt, however, that in dealing with labor legislation the employers and the workers must be given the fullest opportunity of giving free expression to their views and that they could not do this if the delegates were bound to speak and vote as a unit."

The Commission had finished its work and prepared its report on March 24. The report, which is signed by Samuel Gompers, president; Arthur Fontaine, general secretary, and Harold Butler, assistant general secretary, discussed the permanent organization as follows:

#### REPORT OF THE COMMISSION

The Commission has held 35 meetings, and has drawn up its conclusions in two parts. The first is a draft convention containing provisions for the establishment of a permanent organization for international labor legislation. This convention, which was based on a draft presented by the British Delegation, has been the subject of the most careful examination and discussion. The first part of this report may conveniently take the form of a commentary thereon. The second part of the Commission's conclusions is in the form of clauses containing declarations of principle in regard to a number of matters which are of vital importance to the

labor world. At the opening sittings, the various Delegations agreed on the need for such declarations, which the Commission suggests should be included in the Treaty of Peace, in order that it may mark not only the close of the period which culminated in the world war, but also the beginning of a better social order and the birth of a new civilization.

## PART I.—PERMANENT ORGANIZATION

### *Preamble.*

The main idea underlying the scheme embodied in the Convention is that the constitution of the League of Nations will not provide a real solution of the troubles which have beset the world in the past, and will not even be able to eliminate the seeds of international strife, unless it provides a remedy for the industrial evils and injustices which mar the present state of society. In proposing, therefore, to establish a permanent organization in order to adjust labor conditions by international action, the Commission felt that it was taking an indispensable step toward the achievement of the objects of the League of Nations and has given expression to this idea in the Preamble, which defines the objects and scope of the proposed organization.

## CHAPTER I.

Chapter I provides the machinery of the permanent organization proposed. In the first place, it is stipulated (Article 1) that participation in this organization shall be a condition of membership of the League of Nations, since every State Member of the League is morally bound to accept the principles set forth in the Preamble, if it has really at heart the promotion of the cause of justice and humanity.

The organization itself is divided into two parts: (1) The International Labor Conference; (2) The International Labor Office controlled by a Governing Body. (Article 2.)

### *1. International Labor Conference.*

This Conference will meet at least annually and will consist of delegates nominated by each of the High Contracting Parties, two of whom will be directly appointed by the Governments, and the other two will be chosen in agreement with the industrial organizations representative of their employers and workpeople respectively. (Article 3.)

Each delegate will vote individually (Article 4). It was strongly felt by the Commission that if the Conference was really to be representative of all those concerned with industry and to command their confidence, the employers and workpeople must be allowed to express their views with

complete frankness and freedom, and that a departure from the traditional procedure of voting by national units was therefore necessary. It was accordingly thought that the employers' and workpeople's delegates should be entitled to speak and vote independently of their Governments.

Some difference of opinion made itself felt on the Commission as to the relative numbers of the delegates representing the Governments, the employers and the workpeople respectively. The French, American, Italian and Cuban Delegations contended that each of these three parties should have equal voting power. They maintained that the working classes would never be satisfied with a representation which left the Government and the employers combined in a majority of three to their one. In other words, the proposal amounted to giving the States a veto on the proceedings of the Conference which would create so much distrust of it among the workers that its influence would be seriously prejudiced from the start. This view was contested by the British, Belgian and other Delegations, who pointed out that as the Conference was not simply an assembly for the purpose of passing resolutions, but would draw up draft conventions which the States would have to present to their legislative authorities, it was essential that the Governments should have at least an equal voice. Otherwise, it might often happen that conventions adopted by a two-thirds majority of the Conference would be rejected by the legislatures of the various States, which would have the effect of rendering the proceedings of the Conference nugatory and would quickly destroy its influence and prestige. The adoption of a proposal to which the majority of the Governments were opposed would not lead to any practical result, as the legislative authorities of the Governments whose delegates were in the minority would in all probability refuse to accept it. Moreover, it was likely, especially in the future, that the Government delegates would vote more often with the workers than against them. If this were so, it was obviously to the advantage of the latter that the Governments should have two votes instead of one, as it would render it easier for them to obtain a two-thirds majority, which under the Franco-American proposal would be practically impossible if the employers voted in a body against them.

The Commission finally decided by a narrow majority to maintain the proposal that each Government should have two delegates.

The Italian Delegation, which united with the French Delegation in urging the importance of securing representation for agricultural interests, were to some extent reconciled to the above decision by the consideration that, as the Governments would have two delegates, it would be easier to secure such representation. It should also be observed that, as different technical advisers may be appointed for each subject of discussion, agricultural advisers may be selected when necessary.

## 2. *International Labor Office (Articles 6 to 13).*

This Office will be established at the seat of the League of Nations, as part of its administrative organization. It will be controlled by a Governing Body of 24 members, the composition of which is provided for in the Protocol to Article 7. Like the Conference, the Governing Body will consist of representatives of the Governments, employers and workpeople. It will include 12 representatives of the Governments, 8 of whom will be nominated by the States of chief industrial importance, and the remaining 12 will consist of six members nominated by the employers' delegates to the Conference, and six nominated by the workers' delegates. The objects and functions of the Office are sufficiently explained in the articles referred to.

## CHAPTER II.

### 1. *Procedure (Articles 14 to 21).*

This portion of the Convention contains one article of vital importance, namely, Article 19, which treats of the obligations of the States concerned in regard to the adoption and ratification of draft conventions agreed upon by the International Conference.

The original draft proposed that any draft convention adopted by the Conference by a two-thirds majority must be ratified by every State participating, unless within one year the national legislature should have expressed its disapproval of the draft convention. This implied an obligation on every State to submit any draft convention approved by the Conference to its national legislature within one year, whether its own Government representatives had voted in favor of its adoption or not. This provision was inspired by the belief that, although the time had not yet come when anything in the nature of an international legislature whose decisions should be binding on the different States was possible, yet it was essential for the progress of international labor legislation to require the Governments to give their national legislatures the opportunity of expressing their opinion on the measures favored by a two-thirds majority of the Labor Conference.

The French and Italian Delegations, on the other hand, desired that States should be under an obligation to ratify conventions so adopted, whether their legislative authorities approved them or not, subject to a right of appeal to the Executive Council of the League of Nations. The Council might invite the Conference to reconsider its decision, and in the event of its being reaffirmed there would be no further right of appeal.

Other Delegations, though not unsympathetic to the hope expressed in the first resolution<sup>1</sup> printed at the end of the draft convention, that in

<sup>1</sup> See resolution No. I, *infra*.



course of time the Labor Conference might, through the growth of the spirit of internationality, acquire the powers of a truly legislative international assembly, felt that the time for such a development was not yet ripe. If an attempt were made at this stage to deprive States of a large measure of their sovereignty in regard to labor legislation, the result would be that a considerable number of States would either refuse to accept the present convention altogether, or, if they accepted it, would subsequently denounce it, and might even prefer to resign their membership of the League of Nations rather than jeopardize their national economic position by being obliged to carry out the decisions of the International Labor Conference. The majority of the Commission therefore decided in favor of making ratification of a convention subject to the approval of the national legislatures or other competent authorities.

The American Delegation, however, found themselves unable to accept the obligations implied in the British draft on account of the limitations imposed on the central executive and legislative powers by the constitution of certain federal States, and notably of the United States themselves. They pointed out that the Federal Government could not accept the obligation to ratify conventions dealing with matters within the competence of the forty-eight States of the Union, with which the power of labor legislation for the most part rested. Further, the Federal Government could not guarantee that the constituent States, even if they passed the necessary legislation to give effect to a convention, would put it into effective operation, nor could it provide against the possibility of such legislation being declared unconstitutional by the supreme judicial authorities. The Government could not therefore engage to do something which was not within their power to perform, and the nonperformance of which would render them liable to complaint.

The Commission felt that they were here faced by a serious dilemma, which threatened to make the establishment of any real system of international labor legislation impossible. On the one hand, its range and effectiveness would be almost fatally limited if a country of such industrial importance as the United States did not participate. On the other hand, if the scheme were so weakened as to impose no obligation on States to give effect to, or even to bring before their legislative authorities, the decisions of the Labor Conference, it was clear that its work would tend to be confined to the mere passage of resolutions instead of resulting in the promotion of social reforms with the sanction of law behind them.

The Commission spent a considerable amount of time in attempting to devise a way out of this dilemma, and is glad to be able to record that it ultimately succeeded in doing so. Article 19 as now drafted represents a solution found by a Subcommission consisting of representatives of the American, British and Belgian Delegations specially appointed to consider

the question. It provides that the decisions of the Labor Conference may take the form either of recommendations or of draft conventions. Either must be deposited with the Secretary-General of the League of Nations and each State undertakes to bring it within one year before its competent authorities for the enactment of legislation or other action. If no legislation or other action to make a recommendation effective follows, or if a draft convention fails to obtain the consent of the competent authorities concerned, no further obligation will rest on the State in question. In the case of a Federal State, however, whose power to enter into conventions on labor matters is subject to limitations, its Government may treat a draft convention to which such limitations apply as a recommendation only.

The Commission felt that there might in any event be instances in which the form of a recommendation affirming a principle would be more suitable than that of a draft convention, which must necessarily provide for the detailed application of principles in a form which would be generally applicable by every State concerned. Subjects will probably come before the Conference which, owing to their complexity and the wide differences in the circumstances of different countries, will be incapable of being reduced to any universal and uniform mode of application. In such cases a convention might prove impossible, but a recommendation of principles in more or less detail which left the individual States freedom to apply them in the manner best suited to their conditions would undoubtedly have considerable value.

The exception in the case of Federal States is of greater importance. It places the United States and States which are in a similar position under a less degree of obligation than other States in regard to draft conventions. But it will be observed that the exception extends only to those Federal States which are subject to limitations in respect of their treaty-making powers on labor matters, and further that it only extends in so far as those limitations apply in any particular case. It will not apply in the case of a convention to which the limitations do not apply, or after any such limitations as may at present exist have been removed. Though reluctant to contemplate an arrangement under which all States would not be under identical obligations, the Commission felt that it was impossible not to recognize the constitutional difficulties which undoubtedly existed in the case of certain Federal States, and therefore proposed the above solution as the best possible in the circumstances.

Attention should be drawn to the protocol<sup>1</sup> to Article 19. The fear was expressed that the article might be interpreted as implying that a State would be required to diminish the protection already afforded to the workers by its legislation as a result of the adoption of a recommendation

<sup>1</sup> Now embodied in the article itself; *see* page 316.

or draft convention by the Conference; and in consequence, the protocol was added in order to make it quite clear that such an interpretation was inadmissible.

It should be added that the Japanese Delegation abstained from voting on Article 19, as they had not yet received instructions from their Government in the matter. The Italian Delegation also abstained on the ground of the inadequacy of the powers given to the Conference.

## *2. Enforcement (Articles 22 to 34).*

These articles provide machinery whereby a State which fails to carry out its obligations arising under Article 19, or which fails to enforce a convention which it has ratified, may be made subject to economic measures. This machinery is briefly as follows:

An industrial association of employers and workpeople may make representations to the International Labor Office which the Governing Body may at its discretion communicate to the State complained of for its observations. (Article 23.) If no satisfactory reply is received, the Governing Body may publish the correspondence (Article 24) which in most cases will probably create sufficient pressure by public opinion to cause the complaint to be remedied.

The Governing Body also has the power, either on its own motion or on receipt of a complaint from a Government or from a Delegate to the Conference, to apply to the Secretary-General of the League of Nations to nominate a commission of inquiry. For the purpose of such inquiries, each High Contracting Party undertakes to nominate one employer, one workman and one person of independent standing, and each commission shall consist of one person drawn from each of these three categories. (Articles 25 and 26.) The Commission will report on the facts, recommend the steps which should be taken to meet the complaint, and indicate the economic measures, if any, which it considers would be appropriate in the event of the condition complained of not being remedied. (Article 28.)

Appeal may be made to the Permanent Court of International Justice of the League of Nations, which shall have power to review the findings of the Commission. (Articles 29 to 32.) If the defaulting State fails to carry out the recommendations of the Commission or the Permanent Court, as the case may be, within the specified time, it will then be open to the other States to take the economic measures indicated against it. (Article 33.)

It will be seen that the above procedure has been carefully devised in order to avoid the imposition of penalties except in the last resort, when a State has flagrantly and persistently refused to carry out its obligations under a convention. It can hardly be doubted that it will seldom, if ever,

be necessary to bring these powers into operation, but the Commission consider that the fact of their existence is nevertheless a matter of almost vital importance to the success of the scheme.

The representatives of the working classes in some countries have pressed their delegates to urge more drastic provisions in regard to penalties. The Commission, while taking the view that it will in the long run be preferable as well as more effective to rely on the pressure of international public opinion rather than on economic measures, nevertheless considers it necessary to retain the possibility of the latter in the background. If all form of sanction were removed, the effectiveness of the scheme, and what is almost equally important, the belief in its effectiveness, would be in a great measure destroyed.

### CHAPTER III.

#### *General.*

This chapter does not call for much comment, but attention should perhaps be drawn to the provisions of Article 35, which provide that the<sup>1</sup> British Dominions and India, and any colonies or possessions of any State which may hereafter be recognized as fully self-governing by the Executive Council of the League of Nations, shall have the same rights and obligations under the convention as if they were separate High Contracting Parties. It seemed evident to the Commission that Colonies which were fully self-governing, not only as regards labor legislation but generally, must be regarded as separate entities for the purposes of the Labor Conference, but it was decided that a State and its self-governing colonies should not have more than one seat in the Governing Body.<sup>2</sup> In the case of colonies which are not fully self-governing, the mother country undertakes the obligation to apply labor conventions to them, unless local conditions render it impossible to apply them either wholly or in part.

### CHAPTER IV.

#### *Transitory Provisions.*

This chapter provides, *inter alia*, for the holding of the first Conference in October, 1919.

The Commission felt it was essential that the Conference should meet at the earliest possible moment, but that, if it was to do its work effectively, some time must be allowed for the collection of information and for the different countries to prepare their views on the various subjects

<sup>1</sup> The revised wording of Article I makes special provision as regards the Dominions unnecessary.

<sup>2</sup> This provision has not been retained in the Treaty.

for discussion. The Conference could, therefore, hardly meet earlier than October. In the schedule<sup>1</sup> to Article 39, it is proposed that the arrangements for this Conference should be made by an international committee consisting of representatives of the States named, with power to invite other States to send representatives, if necessary. It is suggested that the United States Government might be willing to convene the Conference at Washington, and the Commission much hopes that they will be willing to undertake this task. It is also suggested that the Peace Conference should approve the agenda set out in the same schedule.

The Italian Delegation proposed that all nations should be admitted to the Conference immediately after the signature of the Peace Treaty, but the Commission confined itself to passing the second resolution<sup>2</sup> attached to the draft convention.

In conclusion, it should be remarked that after a long discussion on the question of adopting certain measures in the interest of seamen, the Commission thought that "the very special questions concerning the minimum conditions to be accorded to seamen might be dealt with at a special meeting of the International Labor Conference devoted exclusively to the affairs of seamen," at which the Delegates and technical advisers could accordingly be chosen from the shipping community. (See resolution<sup>3</sup> attached to the Convention [Report].)

## RESOLUTIONS ADOPTED BY THE COMMISSION

### I.—*Resolution proposed by the Belgian, French and Italian Delegations.*

The Commission expresses the hope that as soon as it may be possible an agreement will be arrived at between the High Contracting Parties with a view to endowing the International Labor Conference under the auspices of the League of Nations with power to take, under conditions to be determined, resolutions possessing the force of international law.

### II.—*Resolution proposed by the Belgian, French and Italian Delegations.*

The Commission, being of opinion that an international code of labor legislation which will be really effective can not be secured without the co-operation of all industrial countries, expresses the wish that pending the signature of the Treaty of Peace, which will permit all such countries to be approached, the Peace Conference will communicate the present draft Convention to the neutral powers for their information before finally adopting it.

<sup>1</sup> Now the Annex; see page 322.

<sup>2</sup> See resolution No. II, *infra*.

<sup>3</sup> See resolution No. III, *infra*.



III.—*Resolution proposed by the French Delegation.*

The Commission considers that the very special questions concerning the minimum conditions to be accorded to seamen might be dealt with at a special meeting of the International Labor Conference devoted exclusively to the affairs of seamen.

## IV. ADOPTION OF LABOR GUARANTIES.

It was perhaps natural that labor interests were more concerned with the securing of labor guaranties at Paris than in the permanent organization designed to provide methods of continuous improvement of the world's industrial conditions. The permanent organization was built upon only two principal proposals, the British and the French. The discussion of labor guaranties was based upon proposals from the Italian, French, American, Belgian and British delegations, while the International Association for Labor Legislation transmitted a series of declarations through the Swiss Government and other suggestions were offered from additional sources. In many ways these proposals duplicated each other. The quotation of two of them will suffice to indicate their character. The American delegation on February 8 submitted the following proposals:

We declare that the following fundamental principles should underlie and be incorporated in the Peace Treaty.

A league of the free peoples of the world in a common covenant for genuine and practical co-operation to secure justice, and therefore peace, in relations between nations. The entrance of any free nation into the league of free peoples of the world shall be inherent.

No reprisals based upon purely vindictive purposes, or deliberate desire to injure, but to right manifest wrongs.

Recognition of the rights of small nations and of the principle, "No people must be forced under a sovereignty under which it does not wish to live."

No territorial changes or adjustments of power except in furtherance of the welfare of the peoples affected, and in furtherance of world peace.

That in law and in practice the principle shall be recognized that the labor of a human being is not a commodity or article of commerce.

Involuntary servitude shall not exist except as a punishment for crime whereof the party shall have been duly convicted.

Trial by jury should be established.

The right of free association, free assemblage, free speech and free press shall not be denied or abridged.

That the seamen of the merchant marine shall be guaranteed the right of leaving their vessels when the same are in safe harbor.

No article or commodity shall be shipped or delivered in international commerce in the production of which children under the age of 16 years have been employed or permitted to work.

No article or commodity shall be shipped or delivered in international commerce in the production of which convict labor has been employed or permitted.

It shall be declared that the work day in industry and commerce shall not exceed eight hours per day except in case of extraordinary emergency such as danger to life or property.

The sale or use for commercial purposes of articles made or manufactured in private homes shall be prohibited.

It shall be declared that an adequate wage shall be paid for labor performed—a wage based upon and commensurate with a standard of life conforming to the civilization of the time.

That equal wages shall be paid to women as is paid to men for equal work performed.

The incorporation of the fourteen points laid down by President Wilson.

The British draft, which provided the basis of work on the permanent organization, included similar proposals which were summarized as follows:

Uniformity of the rights of workmen employed abroad, their protection against loss when in a foreign country through the lapse of state insurance against sickness, old age, accidents, unemployment and similar causes;

Prevention of unemployment through the adoption by the different Governments of a policy of distribution of orders for public works so as to keep the demand for labor at an approximately uniform level;

The relief of the unemployed through a system of registration and co-operation between employers in different lines of industry to meet fluctuating labor demands;

Opportunities to unemployed young workers for the continuance of their education at established centers;

A system of inspection of factories and workshops to insure the execution of labor laws;

The protection of children, youths and women, with educational opportunities for the children, and the regulating of night work for the youths;

The limitation of the working shift for young persons to half that of adults, with no overtime or night work;

The recognition of the rights of workingmen to combine and the right to peaceful picketing;

The recognition of the right of workingmen to combine politically and the right of trades unions to participate in politics;

Working hours to be fixed by laws in each state with an international standard as the minimum;

The regulation of home work in small workshops or sweat shops to be attended to by each state, in view of the difficulty of settling this problem by international legislation;

An international code, regulating labor conditions in the mercantile marine under every flag, to be worked out by a special maritime commission of the League of Nations, in continuous session to take up new points.

### *How Proposals Were Dealt With*

When the Commission came to examine the five official and many unofficial sets of proposals an obvious problem was encountered. Certain principles were both generally recognized as correct and widely operative; others were ripe for decision but would require technical elaboration; still others were in the category of reasonable demands which, however, would require study and a certain amount of experimentation before they could be declared to apply to the world in general. The Commission, therefore, wisely concluded at the outset that it was best to establish a permanent organization capable of working toward the ends desired. Consequently, the annual International Labor Conference and the International Labor Office were made the kernel of the system of labor reform. To this was added a declaration of general principles—popularly known as the Magna Charta of Labor—which seemed to the Commission to be undebatable reforms. The second group of principles was assigned to the program of the first meeting of the Labor Conference and was made part of the treaty in the form of an annex. The third group was in general terms written into the Preamble of the Labor Section of the Treaty as an official statement of aspirations and a definition of the purposes to be pursued by the permanent organization. In these forms the larger part of the desired ends was either realized or put into the way of being realized.

Around the labor clauses centered most of the popular interest in the work of the Commission. They were extensively debated in and out of the Conference and underwent many changes. The Commission said of them in its report:

### PART 2. LABOR CLAUSES

The Commission were unanimous in thinking that their work would not be complete if it were simply confined to setting up a permanent

machinery for International Labor Legislation. It was not within their competence or within their terms of reference to deal with specific questions relating to industrial conditions and to work them out with the detail necessary for the framing of proposals which could be accepted in a binding form. So impressed were they, however, with the urgent need for recognizing explicitly certain fundamental principles as necessary to social progress, that they decided to submit a series of declarations for insertion in the Peace Treaty. They did not feel called upon, however, to draw up a Charter containing all the reforms which may be hoped for in a more or less distant future, but confined themselves to principles the realization of which may be contemplated in the near future.

It will be seen that the High Contracting Parties are not asked to give immediate effect to them, but only to indorse them generally. It will be the duty of the International Labor Conference to examine them thoroughly and to put them in the form of recommendations or draft conventions elaborated with the detail necessary for their practical application.

Proposals were placed before the Commission by the Italian, French, American, Belgian and British Delegations as to the declarations which should be made. The Commission decided that no declaration should be submitted to the Peace Conference, unless it were adopted by a two-thirds majority, and it now has the honor of submitting nine declarations, all of which obtained such a majority and some of which were adopted unanimously.

It should be added, in conclusion, that a majority, but not a two-thirds majority, was obtained for a proposal couched in very general terms which suggested the application to agriculture of the general principles of labor legislation, and which arose out of an Italian proposal in regard to the limitation of the hours of work in agriculture. The delegates who voted against this proposal were, as they explained, by no means hostile to its general idea, but they thought that a proposal in such wide terms was not suitable for inclusion among the declarations to be put forward.

SAMUEL GOMPERS,

*President.*

ARTHUR FONTAINE,

*General Secretary.*

HAROLD BUTLER,

*Assistant General Secretary.*

*Paris, March 24, 1919.*

#### *Guaranties as Phrased by Commission.*

The clauses as they stood at that time read as follows:

The High Contracting Parties declare their acceptance of the following principles and engage to take all necessary steps to secure their realization



in accordance with the recommendation to be made by the International Labor Conference as to their practical application:

1. In right and in fact the labor of a human being should not be treated as merchandise or an article of commerce.

2. Employers and workers should be allowed the right of association for all lawful purposes.

3. No child should be permitted to be employed in industry or commerce before the age of fourteen years, in order that every child may be insured reasonable opportunities for mental and physical education.

Between the years of fourteen and eighteen, young persons of either sex may only be employed on work which is not harmful to their physical development and on condition that the continuation of their technical or general education is insured.

4. Every worker has a right to a wage adequate to maintain a reasonable standard of life having regard to the civilization of his time and country.

5. Equal pay should be given to women and to men for work of equal value in quantity and quality.

6. A weekly rest, including Sunday, or its equivalent for all workers.

7. Limitation of the hours of work in industry on the basis of eight hours a day or forty-eight hours a week, subject to an exception for countries in which climatic conditions, the imperfect development of industrial organization or other special circumstances render the industrial efficiency of the workers substantially different.

The International Labor Conference will recommend a basis approximately equivalent to the above for adoption in such countries.

8. In all matters concerning their status as workers and social insurance foreign workmen lawfully admitted to any country and their families should be insured the same treatment as the nationals of that country.

9. All States should institute a system of inspection in which women should take part, in order to insure the enforcement of the laws and regulations for the protection of the workers.

*Voted by Plenary Session.*

They were altered by the Peace Conference itself in the fifth plenary session on April 19:

Mr. BARNES said it would be remembered that there was embodied in the report of the Labor Commission a reference to nine resolutions which the Commission had adopted, each one of which was accorded two-thirds of a majority vote. It was intended to have dealt with them at the last plenary session, but they were not reached. Difficulties had arisen even

then, and were developed later on in regard to the draft. He endeavored, on behalf of the Labor Commission, to get an agreement on a re-draft, but he was sorry to say that he was unsuccessful. Sir Robert Borden was more successful, and he [Sir Robert] was going to submit them now.

Sir ROBERT BORDEN (Canada) read the amended text, which he now moved as an amendment to that originally proposed:

The High Contracting Parties, recognizing that the well-being, physical, moral and intellectual, of industrial wage-earners is of supreme international importance, have framed a permanent machinery associated with that of the League of Nations to further this great end.

They recognize that differences of climate, habits and customs, of economic opportunity and industrial tradition, make strict uniformity in the conditions of labor difficult of immediate attainment. But, holding as they do that labor should not be regarded merely as an article of commerce, they think that there are methods and principles for regulating labor conditions which all industrial communities should endeavor to apply, so far as their special circumstances will permit.

Among these methods and principles the following seem to the High Contracting Parties to be of special and urgent importance:

*First.*—The guiding principle above enunciated, that labor should not be regarded merely as a commodity or article of commerce.

*Second.*—The right of association for all lawful purposes by the employed as well as by the employers.

*Third.*—The payment to the employed of a wage adequate to maintain a reasonable standard of life, as this is understood in their time and country.

*Fourth.*—The adoption of an eight-hours' day or a 48-hours' week as the standard to be aimed at where it has not already been attained.

*Fifth.*—The adoption of a weekly rest of at least 24 hours, which should include Sunday wherever practicable.

*Sixth.*—The abolition of child labor and the imposition of such limitations on the labor of young persons as shall permit the continuation of their education and assure their proper physical development.

*Seventh.*—The principle that men and women should receive equal remuneration for work of equal value.

*Eighth.*—The standard set by law in each country with respect to the conditions of labor should have due regard to the equitable economic treatment of all workers lawfully resident therein.

*Ninth.*—Each state should make provision for a system of inspection, in which women should take part, in order to insure the enforcement of the laws and regulations for the protection of the employed.

Without claiming that these methods and principles are either complete or final, the High Contracting Parties are of opinion that they are well

fitted to guide the policy of the League of Nations; and that, if adopted by the industrial communities who are members of the League, and safeguarded in practice by an adequate system of such inspection, they will confer lasting benefits upon the wage-earners of the world.

SIR ROBERT BORDEN added that these represented no alterations in substance. There was, however, a new arrangement, and the phraseology had been somewhat altered. For example, the difference of conditions among different nations, which was alluded to in paragraph 7 of the articles as originally drafted, was now recognized as a condition which must apply to all the principles here laid down.

Further than that it was thought that it was not possible to establish a code which should be permanent or enduring, and in the new draft emphasis was laid upon the view that this was an enunciation of principles upon which from time to time, if need be, a code might be built up.

In the concluding paragraph emphasis was laid upon the consideration that these methods and principles were not to be regarded as complete or final. It was quite impossible to foresee all developments and all ideals that might arise in the future, and therefore this was put forward as a tentative enunciation of principles which it was believed would result, if they were followed out as they should be, in the improvement of labor conditions throughout the world.

M. VANDERVELDE (Belgium) said he would have preferred the text as drafted by the Commission because it was more definite, but, as we desired to secure unanimity among 32 different nations, some softening of the language at the expense perhaps of making it a little less definite was unavoidable, and it was necessary to accept it.

SIR ROBERT BORDEN'S motion was carried.

The session was declared adjourned at 5:40 p. m.

In that form they appear in Article 427 of the Treaty of Peace with Germany.

## V. PEACE CONFERENCE ADOPTS TEXT FOR TREATY.

The work of the Commission as completed and reported on March 24 was approved at the fourth plenary session of the Peace Conference on April 11. The proceedings at that time constitute an important statement of the intentions of those who framed this section of the Treaty and also afford evidence of the manner in which the Commission's work was received at the outset by responsible statesmen. The proceedings *in extenso* follow:

After introductory remarks by the President, Mr. BARNES (British Empire): We have issued, along with our report, two separate and distinct drafts, one being the text of a scheme of international organization, the other a collection of nine resolutions for insertion in the Peace Treaty, or to be issued therewith. Before dealing with the documents, however, perhaps I may be allowed to say a few words in regard to our conception of the task intrusted to us.

First of all, I want to say that we approached our work, as I am sure you would have had us do, in a sympathetic spirit and from a humane standpoint. Some of us knew our labor world at first hand, and we knew that there were many in it condemned to lives of toil relieved only by spells of compulsory idleness. In the old times, before the war, labor conditions were largely the outcome of blind chance. Age and want, that ill-matched pair, haunted the mind of the average workman in his working life, and we must remember that the laborer still lives in pre-war memories and is determined not to return to pre-war conditions. Those pre-war experiences of labor have laid upon the world a heavy burden and a great danger. They have produced a man who is class-centered, who regards work as a blessing and who has been deluded into the belief that the less work he does the more there is left for his mates to do. This feeling, and the practice based upon it, is demoralizing to the individual and harmful to the community, but it is based on the fear of want, and can be eradicated only by security of employment under improved conditions.

In saying that, I am not casting stones at any class for existing conditions—it has not been conscious of cruelty—but rather the long arm of circumstance that has cast a devil's chain around the lives of some workers in some countries. I do not deny that some may rise to share in the pleasure of life, but, nevertheless, it is true to say that the mass remain a misfit in their present condition, a source of concern to all lovers of their kind and a menace to the peace of the world.

*Integral Part of Conference.*

It is this last aspect of the matter which makes labor regulations and improvement an integral part of the work of a Peace Conference. The question we had, therefore, to consider was how to provide the means whereby to promote a better mental atmosphere, as well as to produce improved material conditions.

Hitherto, it has sometimes been found that efforts at improvement in a country have been checked by the fear, or the plea, of competition from other low-wage countries. I do not enter into the question as to the validity of that plea, although in parentheses it may here be said that the highest-wage countries are not the least successful in world competition. I merely mention it as a factor in sometimes preventing improvements in countries of a relatively high standard of life.

For the first time in history, we are now seeking to get the co-operation of all concerned. States, employers and workers engaged in a common cause and animated by a common desire to raise the standard of life everywhere.

At the threshold of our proceedings, however, we were met by two real obstacles—first, the difference in industrial development as between countries; and second, the limitations of states in regard to acceptance of international decrees. We had perforce to give up the idea of uniformity of coercion, and to rely mainly on the good will of states to accept or reject advice and guidance as might be decided by their own competent authorities. I freely confess that at one time I was in favor of penalties. Closer inspection, however, led me to the conclusion that penalties must be kept well in the background, and imposed then only through the agency and with the authority of the League of Nations. That provision is now embodied in our organization. But, while my mind was driven from one channel, it was at the same time attracted to the possibility of another. Publicity and agreement presented themselves in clearer and better colors. After all, it is not coercion which is needed, so much as knowledge and good will.

We have, therefore, provided for conferences of states, employers and workers to be held in the light of day, to be representative of all concerned, and to be armed with the fullest possible information. It will be the business of the organization which we propose to establish to collect and distribute information, to stimulate healthy public opinion, and to let light into dark places, wherever such may be found to exist. This, then, may be said to be the fundamental, and as we believe the effective, idea in our organization, the creation and mobilization of humane public opinion.



*Product of Many Minds.*

Regarding the document itself, first let me say that the scheme was drafted in Paris and submitted first of all to the British Delegation and British Labor men; then presented to the Commission which you set up and after it had emerged from the Commission it was again submitted in an altered and expanded form to British Labor representatives. I do not want to pose as the champion of Britain in this matter. I do not want to take undue credit for anything; we can only take credit for the initiation. I am speaking now for the British Delegation. This document as it now appears before you is the product of many minds, is the unanimous finding of the Commission you yourselves set up. It puts into concrete form what has been asked for and seen as a vision in France above all countries for many years.

Now let me say a few words about its main provisions. First of all its boundaries are made to coincide with those of the League of Nations. We have two reasons for this. First, because in doing that the League of Nations is thereby invested with duties of a positive nature and associated with the every day life of the community, and, secondly, all the nations in the League are brought into world co-operation for industrial improvement and thereby a favorable impression will be created on labor in all countries because the impression will be created that the Peace Conference is seriously regarding this labor problem. In the second place we provide for annual conferences. These annual conferences will consist of four members from each state: two members being directly representative of the state and the others being representative of labor and the employers respectively. In so far as is possible, and in fact, unless otherwise provided, the annual meetings will be held at the capital of the League of Nations, and we propose a new and novel form of voting at the conferences. Each delegate will be allowed to vote separately, so that we may promote the spirit of internationality.

Thirdly, there will be a permanent office, also situated at the capital of the League of Nations, whose business it will be to collect and distribute information, and which will be under the control of a governing body constituted in like manner to the conference itself—half of Government and half of non-Government elements.

*Method of Securing Reform.*

I now come to procedure. The most important article connected therewith is No. 19. It has been the chief obstacle to the agreement, ultimately, I am glad to say, reached. It now provides that if the proposals are indorsed by a conference they are to be in the form of a draft convention

or, alternatively, in the form of a recommendation. In either case, if supported by two-thirds of the votes cast at a conference, they become the finding of that conference and are deposited with the Secretary-General of the League of Nations. Each high contracting party then comes under the obligation to submit the convention or recommendation, as the case may be, within 12 months to its competent authority, and, unless such competent authority indorses or accepts the recommendation or convention, as the case may be, that is the only obligation resting upon the affiliated states, subject to a proviso, however, in the following clause, of which I shall say a word in a moment. The state comes under the obligation if its competent authority accepts the recommendation or convention to carry it out.

Here, however, we come upon the difficulty of federal states. There are states which are prevented by their constitutions from making treaties in regard to labor matters. There are states, such as the United States of America, which include numbers of competent authorities which must be left free to decide for themselves. It was because of that that we decided to allow of a convention being cast in form of a recommendation, and then if cast in the form of a convention it should still be regarded by a federal state as a recommendation only. If a federal state adopted it, it would do so in its own way. The net result of all this is that there is a less degree of obligation resting upon a federal state than upon other states. That is regrettable but, as we found, unavoidable.

Now I come to the two suggested additions to Article 19. It will be remembered that I said a few moments ago that a state was bound to put a convention or recommendation to its competent authorities within 12 months. It has been pointed out, however, that there might be exceptional and unforeseen circumstances which would make that impossible, such as a general election in a country, and it has been suggested that after the words "12 months after the meeting of the conference," there should be inserted, "or if it is impossible, owing to exceptional circumstances to do so within a period of one year, then at the earliest possible moment, and in no case later than 18 months from the end of the conference."

Speaking now as a representative rather of the British Delegation than of the Commission, I can say that I have no objection to the insertion of these words.

#### *Problem of Differing Industrial Conditions.*

Then another addition is proposed as a protocol to Article 19 to make the meaning clearer. The words are simply declaratory and do not alter the sense. It will be remembered that I said we had to give up ideas of uniformity in consequence of different degrees of industrial development

in different countries. Of course, every state is free to reject, and therefore, it may be said that there is a sufficient safeguard against coercion or non-elasticity. It has been pointed out, however, that states might be charged with insincerity if they came into the organization and repeatedly rejected its recommendations. In order, therefore, that it should be made clear that there is an obligation resting upon the conference itself to have regard to undeveloped countries, it is proposed that the following words should be added to our document as a protocol to this Article 19:

In framing any recommendation or draft convention of general application, the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of industrial organization, or other special circumstances make the industrial conditions substantially different, and shall suggest modifications, if any, which it considers may be required to meet the case of such countries.

This makes no difference to the scheme of organization and may be accepted as part of it.

The provision of Article 20 is that, in the event of a state adopting a convention, it shall be bound to it, subject only to conditions in the convention itself. What we had in mind there was that it might be subject to the proviso that the convention had to be accepted by a certain number or proportion of all states.

#### *Rely on Publicity and Inquiry.*

A word only about the enforcement clauses. It will be noted that although the machinery of organization is brought into play, reliance is placed on publicity and inquiry, with an appeal in the last resort to the League of Nations. The governing body can initiate proceedings, but the inquiry is made by persons selected by the Secretary-General of the League of Nations, and the International Court of the League may affirm, vary or reverse any decision reached.

I pass over some comparatively unimportant provisions and come to the transitory articles. We propose a conference being held this year at Washington, provided that the United States Government is willing to co-operate with an International Committee which we propose should be set up and consist of seven representatives of seven states, including one from Switzerland as representing neutral states. We are most anxious to begin the preparations for this conference as soon as possible.

Just a few words now about the resolutions. It was felt by the Commission that its work would not be complete if it were confined to setting up machinery. Great hopes have been raised of something of a direct nature being done by the Peace Conference itself through some terms in the Peace Treaty. It was not within our competence to deal in detail

with specific questions of industrial improvement. It is not even within the competence of this august body to impose industrial changes on affiliated states. At the same time, the Commissioners were so impressed with the need for recognizing some principles that they decided to submit some principles to the Conference. It will be noticed that the high contracting parties are not asked to give immediate effect to them, but only to indorse them generally. Nine such proposals were adopted by the Commission, each of them getting the support of a two-thirds majority, which was a condition of their adoption. That, Sir, is the completed work of the Commission, of which you have a full report in your possession. Provided you give us the necessary authority, we are ready to start forthwith in preparing for our first conference.

*Commends Work to Conference.*

Sir, I need scarcely remind you of the urgency of the work of labor amelioration, for it is known to all that new thoughts are surging up among us and that the world as a result is in a ferment. Nor need I dwell on its importance, an importance second only to the prevention of war, to which we have already given our hand and seal. Our scheme will, we think, give strength to the League of Nations by enabling it to take root in the daily life of peoples. It will, we believe, give hope and health to those whose lives are scarred by toil and sorrow, and on behalf of the Commission I commend it to your favorable consideration.

President WILSON said he had been greatly interested in the suggestion that the first Labor Conference should be held in Washington this year. He assured them that the conference would meet with most cordial welcome there.

M. COLLIARD, the French minister of labor, in seconding the report of the Labor Commission, said the principle which had guided their discussions in the Labor Commission was that, in the interest of workers and in order that humane legislation might develop without shock or injury from economic competition, it was necessary that the workers of all countries should be assured of at least the same minimum of guaranties. It was only in this way that they would find the leisure and ease to which the development of civilization legitimately permitted them to aspire. While this draft was being prepared, different sentiments were expressed concerning whether the number of delegates should be fixed according to each constitutive party among the nations represented, or whether the sovereign rights of states in labor legislation should be made to harmonize with the power that the permanent organism should have.

Certain delegates in particular desired to grant more power to the decisions of the latter and, to a certain extent, to give it a more direct



legislative authority. They were undoubtedly foreshadowing the founding of an international parliament which might be the solution of the future. Other delegations were more anxious for the sovereignty of the people they represented, and feared that, in seeking permanent solutions, they might delay the beginnings of a work which could only grow and gain in strength by its very development to a final peace. But all delegations knew when to make the necessary sacrifices in order to obtain important results. So far as the French Delegation was concerned, they did not regret these sacrifices.

*Workers to Sit as Plenipotentiaries.*

M. VANDERVELDE (Belgium):

First is the creation of a permanent organization for international legislation. In the second place stands the fact that, in the conferences which are to be held from this year onward, the members of the working class will sit for the first time as plenipotentiaries. And also there is the fact that we have every reason to hope that this very day there will be written into the treaty of peace the reforms which are affirmed in our project of a labor charter, especially those which appeal to the heart of the working class, the minimum wage and the eight-hour day.

I have to tell you that the Belgian working class, like the English, attach the greatest importance to the decisions which it awaits from you. And if I make this declaration, it is because—I speak very frankly—in other countries people are less optimistic concerning the results obtainable in this respect from this conference and are less satisfied with the resolutions proposed by the Commission.

He gave his reasons for supporting the proposed representation of one delegate for employers and one for workers and two for the state in a general Labor Conference. At first he had supported the British proposal that the state should have only one delegate, but he had changed his opinion later, as he realized that already it was by no means certain that the state would always support capitalism in opposition to labor. As a minister, and at the same time a socialist, he himself stood as proof of this. Moreover, by state aid, Mr. Lloyd George had recently settled in favor of the workers one of the greatest labor crises the world had ever seen.

The objection that some people had to the Labor Charter was that it would not have sufficient power. He had no hesitation in saying that many of them hoped the day might come when the League of Nations might be a super-parliamentary body, but they could not do everything at once. Some of them were also grieved to see that the Bern Socialist Conference resolutions went much farther than theirs; but it must be remembered that the Bern resolutions were only expressions of wishes,



whereas their recommendations amounted almost to laws for a people who accepted them.

*All Should Be Represented.*

When in a few months the first Labor Conference assembles at Washington, we run the risk of seeing a certain number of vacant seats; we risk seeing absent nationalities. There will be representatives of the employees or employers of the Entente, of neutrals; there will perhaps not be representatives of the powers which are still enemy powers. But if this seems necessary when considering a League of Nations, which must defend itself and make military conventions, how difficult, not to say impossible, is it to legislate, in the matter of international labor law, without all the great industrial nations present, without all the proletariat being represented? If the present situation is not to be transitory, two things will result: First, we would run the risk of seeing another conference before ours, in which the proletariat would perhaps be more powerful and influential; and, second, if this situation were to be prolonged, our international legislation might become partially ineffective because it could be applied only to a part of the great industrial countries. It is for this reason that the Commission was unanimous, not in providing in the organic statute of the conference for the immediate admission of all industrial nations, but in voting an opinion in favor of their incorporation as soon as possible in the organism we are about to create. For my part I am convinced that this is necessary for the protection of labor, for industrial legislation, for the problems which will arise among us; that it will be one of the most powerful factors in the complete reconciliation of peoples, for which I hope with my whole heart and soul.

In conclusion, I consider that the work of the Commission has been measurably just, a transaction, and, I dare say, a work of transition, of transition between the absolutism of the employing class (*du patronat*), which has been the régime of yesterday, to the sovereignty of labor, which, I ardently believe, will be the régime of tomorrow. To pass from one to the other there are two roads: one is strewn with violence and insurrection, the other takes one there as swiftly, but without clashes and blows. If I dared put my thought into tangible language, I would say that to accomplish the revolution which we feel operating through the whole world, there is the Russian method and the English method. It is the English method which has triumphed with the Labor Commission. That is why I support the conclusions of my friend Mr. Barnes with my whole heart, by expressing the hope that they will be accepted by the Conference and that to-day will prove that, if the working class has been one of the decisive elements in winning the war, it will receive its just reward the moment peace is made.

*Social Peace Must be Preserved*

Signor BARZILAI, the Italian delegate, said it was a great satisfaction to the Italian Delegation that they had done all they could to help in the drawing up of the Labor Charter, which was one of the greatest parts of the Peace Conference. He was particularly glad to see that all the items of the agenda of the first Labor Conference to be held at Washington coincided almost entirely with the suggestions made by the Italians to the first meeting of the Labor Commission. Employers and employees may feel, as we feel, that the peace which we make here will be only a vain word if each citizen does not give his greatest efforts to the preservation of the social peace.

Lord SINHA: From the industrial point of view India was in an extremely backward condition, but their hope was that in the next few years a great impetus would be given to indigenous industries. If, however, these industries were to be developed on sound foundations, they must look to the welfare of their workers. Already something had been done in India; the factory act of some years ago had already had good results. But having regard to India's climatic, social and other conditions, their own Factory Commission had recommended that progress must be slow. They had watched the building up of this convention with some misgiving, fearing that allowance would not be made for India's peculiar conditions. Happily, their misgivings were banished by the amendment announced by Mr. Barnes referring to countries having special labor conditions differing from those of Western countries. They gladly and whole-heartedly accepted this Labor Convention with the amendment referred to.

The Maharajah of BIKANIR expressed his warm sympathy for those efforts to ameliorate the conditions of labor. He was glad that the special provision had been inserted which had regard to the conditions of such countries as India. He would like to make one point clear. As the territories of the ruling princes lay outside British India, and as the legislation enacted for British India by the British Government could not apply to the Indian states, and as furthermore, the only competent authority to legislate for an Indian state was the Government of the state concerned, it should be clearly understood that "the authority or authorities within whose competence the matter lies for the enactment of legislation or other action" should be the constitutive authorities of the various Indian states concerned.

*Approval Voted by Conference*

Mr. BARNES moved:

That the Conference approves the Draft Convention creating a permanent organization for the promotion of the international regula-

tion of labor conditions which has been submitted by the Labor Commission; instructs the Secretariat to request the Governments concerned to nominate forthwith their representatives on the organizing committee for the October Conference, and authorizes that committee to proceed at once with its work.

Mr. BUSTAMENTE (Cuba) then expressed his appreciation of the efforts of the Commission, but made a certain reservation as to Article 37, which was against the constitution of his country. The Bolivian, Ecuadorean and other South American delegates made the same reservation.

Sir ROBERT BORDEN said he desired to offer his congratulations to the Labor Commission on its work, but he wished that the following amendment should be added to the motion of Mr. Barnes:

The Conference authorizes the Labor Conference<sup>1</sup> to make such amendments as may be necessary to have the Conference conform to the Covenant of the League of Nations in the character of its membership and in the method of adherence thereto.

President WILSON then rose and said he could not let the occasion pass without expressing his personal regret that Mr. Gompers, who had been the chairman of the Commission, was not there to speak. In his absence President Wilson wished to say how much the working classes of the United States would welcome the Labor Charter.

Sir ROBERT BORDEN's suggested amendment was again read at M. Clemenceau's request, and, as there were no objections, M. Clemenceau declared Mr. Barnes' and Sir Robert Borden's amendments as carried unanimously.

The session closed at 5:30 p. m.

<sup>1</sup>"Editing committee," according to *Le Temps*, April 13, 1919.

## VI. TEXT OF THE LABOR SECTION OF THE TREATY

From that time the text was fixed with the exception of that of the general principles which was finally voted eight days later. The form of the draft at that time was that of a separate convention. The Peace Conference decided, however, that the labor provisions should be incorporated into the Treaty itself and the draft convention, therefore, underwent a general textual revision. The phrases "High Contracting Parties" or "State" were uniformly made to read "members" or "member." Other changes are indicated in the notes to the following text of Part XIII of the Treaty as presented to the German Delegation on May 7 and as signed by it on June 28:

### PART XIII.

#### LABOR

##### SECTION I

#### ORGANIZATION OF LABOR

Whereas the League of Nations has for its object the establishment of universal peace and such a peace can be established only if it is based upon social justice;

And whereas conditions of labor exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled; and an improvement of those conditions is urgently required: as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labor supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of freedom of association, the organization of vocational and technical education and other measures;

Whereas also the failure of any nation to adopt humane conditions of labor is an obstacle in the way of other nations which desire to improve the conditions in their own countries;

The HIGH CONTRACTING PARTIES, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, agree to the following:

## CHAPTER I.

## ORGANIZATION

## ARTICLE 387 (1)

A permanent organization is hereby established for the promotion of the objects set forth in the Preamble.

The original Members of the League of Nations shall be the original Members of this organization, and hereafter membership of the League of Nations shall carry with it membership of the said organization.<sup>1</sup>

## ARTICLE 388 (2)

The permanent organization shall consist of:

- (1) a General Conference of Representatives of the Members and,
- (2) an International Labor Office controlled by the Governing Body described in Article 393 (7).

## ARTICLE 389 (3)

The meetings of the General Conference of Representatives of the Members shall be held from time to time as occasion may require, and at least once in every year. It shall be composed of four Representatives of each of the Members, of whom two shall be Government Delegates and the two others shall be Delegates representing respectively the employers and the workpeople of each of the Members.

Each Delegate may be accompanied by advisers, who shall not exceed two in number for each item on the agenda of the meeting. When questions specially affecting women are to be considered by the Conference, one at least of the advisers should be a woman.

The Members undertake to nominate non-Government Delegates and advisers chosen in agreement with the industrial organizations, if such organizations exist, which are most representative of employers or workpeople, as the case may be, in their respective countries.

Advisers shall not speak except on a request made by the Delegate whom they accompany and by the special authorization of the President of the Conference, and may not vote.<sup>2</sup>

A Delegate may by notice in writing addressed to the President appoint one of his advisers to act as his deputy, and the adviser, while so acting, shall be allowed to speak and vote.

The names of the Delegates and their advisers will be communicated to the International Labor Office by the Government of each of the Members.

<sup>1</sup>This article was altered in phraseology by the Drafting Commission.

<sup>2</sup>Paragraph, somewhat revised.



The credentials of Delegates and their advisers shall be subject to scrutiny by the Conference, which may, by two-thirds of the votes cast by the Delegates present, refuse to admit any Delegate or adviser whom it deems not to have been nominated in accordance with this Article.

#### ARTICLE 390 (4)

Every Delegate shall be entitled to vote individually on all matters which are taken into consideration by the Conference.

If one of the Members fails to nominate one of the non-Government Delegates whom it is entitled to nominate, the other non-Government Delegate shall be allowed to sit and speak at the Conference, but not to vote.

If in accordance with Article 389 (3) the Conference refuses admission to a Delegate of one of the Members, the provisions of the present Article shall apply as if that Delegate had not been nominated.

#### ARTICLE 391 (5)

The meetings of the Conference shall be held at the seat of the League of Nations, or at such other place as may be decided by the Conference at a previous meeting by two-thirds of the votes cast by the Delegates present.

#### ARTICLE 392 (6)

The International Labor Office shall be established at the seat of the League of Nations as part of the organization of the League.

#### ARTICLE 393 (7)

The International Labor Office shall be under the control of a Governing Body consisting of twenty-four persons, appointed in accordance with the following provisions:<sup>1</sup>

The Governing Body of the International Labor Office shall be constituted as follows:

Twelve persons representing the Governments;

Six persons elected by the Delegates to the Conference representing the employers;

Six persons elected by the Delegates to the Conference representing the workers.

Of the twelve persons representing the Governments eight shall be nominated by the Members which are of the chief industrial importance, and four shall be nominated by the Members selected for the

<sup>1</sup>All except the first and last paragraphs of this were a protocol in the draft convention.

purpose by the Government Delegates to the Conference, excluding the Delegates of the eight Members mentioned above.

Any question as to which are the Members of the chief industrial importance shall be decided by the Council of the League of Nations.

The period of office of the Members of the Governing Body will be three years. The method of filling vacancies and other similar questions may be determined by the Governing Body subject to the approval of the Conference.

The Governing Body shall, from time to time, elect one of its members to act as its Chairman, shall regulate its own procedure and shall fix its own times of meeting. A special meeting shall be held if a written request to that effect is made by at least ten members of the Governing Body.

#### ARTICLE 394 (8)

There shall be a Director of the International Labor Office, who shall be appointed by the Governing Body, and, subject to the instructions of the Governing Body, shall be responsible for the efficient conduct of the International Labor Office and for such other duties as may be assigned to him.

The Director or his deputy shall attend all meetings of the Governing Body.

#### ARTICLE 395 (9)

The staff of the International Labor Office shall be appointed by the Director, who shall, so far as is possible with due regard to the efficiency of the work of the Office, select persons of different nationalities. A certain number of these persons shall<sup>1</sup> be women.

#### ARTICLE 396 (10)

The functions of the International Labor Office shall include the collection and distribution of information on all subjects relating to the international adjustment of conditions of industrial life and labor, and particularly the examination of subjects which it is proposed to bring before the Conference with a view to the conclusion of international conventions, and the conduct of such special investigations as may be ordered by the Conference.

It will prepare the agenda for the meetings of the Conference.

It will carry out the duties required of it by the provisions of this Part of the present Treaty in connection with international disputes.

It will edit and publish in French and English, and in such other

<sup>1</sup> The draft convention read "should."

languages as the Governing Body may think desirable, a periodical paper dealing with problems of industry and employment of international interest.

Generally, in addition to the functions set out in this Article, it shall have such other powers and duties as may be assigned to it by the Conference.

#### ARTICLE 397 (11)

The Government Departments of any of the Members which deal with questions of industry and employment may communicate directly with the Director through the Representative of their Government on the Governing Body of the International Labor Office, or failing any such Representative, through such other qualified official as the Government may nominate for the purpose.

#### ARTICLE 398 (12)

The International Labor Office shall be entitled to the assistance of the Secretary-General of the League of Nations in any matter in which it can be given.

#### ARTICLE 399 (13)

Each of the Members will pay the traveling and subsistence expenses of its Delegates and their advisers and of its Representatives attending the meetings of the Conference or Governing Body, as the case may be.

All the other expenses of the International Labor Office and of the meetings of the Conference or Governing Body shall be paid to the Director by the Secretary-General of the League of Nations out of the general funds of the League.

The Director shall be responsible to the Secretary-General of the League for the proper expenditure of all moneys paid to him in pursuance of this Article.

### CHAPTER II

#### PROCEDURE

#### ARTICLE 400 (14)

The agenda for all meetings of the Conference will be settled by the Governing Body, who shall consider any suggestion as to the agenda that may be made by the Government of any of the Members or by any representative organization recognized for the purpose of Article 389 (3).

#### ARTICLE 401 (15)

The Director shall act as the Secretary of the Conference, and shall transmit the agenda so as to reach the Members four months before the

meeting of the Conference, and, through them, the non-Government Delegates when appointed.

#### ARTICLE 402 (16)

Any of the Governments of the Members may formally object to the inclusion of any item or items in the agenda. The grounds for such objection shall be set forth in a reasoned statement addressed to the Director, who shall circulate it to all the Members of the Permanent Organization.

Items to which such objection has been made shall not, however, be excluded from the agenda, if at the Conference a majority of two-thirds of the votes cast by the Delegates present is in favor of considering them.

If the Conference decides (otherwise than under the preceding paragraph) by two-thirds of the votes cast by the Delegates present that any subject shall be considered by the Conference, that subject shall be included in the agenda for the following meeting.

#### ARTICLE 403 (17)

The Conference shall regulate its own procedure, shall elect its own President, and may appoint committees to consider and report on any matter.

Except as otherwise expressly provided in this Part of the present Treaty, all matters shall be decided by a simple majority of the vote cast by the Delegates present.

The voting is void unless the total number of votes cast is equal to half the number of the Delegates attending the Conference.

#### ARTICLE 404 (18)

The Conference may add to any committees which it appoints technical experts, who shall be assessors without power to vote.

#### ARTICLE 405 (19)

When the Conference has decided on the adoption of proposals with regard to an item in the agenda, it will rest with the Conference to determine whether these proposals should take the form: (a) of a recommendation to be submitted to the Members for consideration with a view to effect being given to it by national legislation or otherwise, or (b) of a draft international convention for ratification by the Members.

In either case a majority of two-thirds of the votes cast by the Delegates present shall be necessary on the final vote for the adoption of the recommendation or draft convention, as the case may be, by the Conference.

In framing any recommendation or draft convention of general application the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of industrial organization or other special circumstances make the industrial conditions substantially different and shall suggest the modifications, if any, which it considers may be required to meet the case of such countries.<sup>1</sup>

A copy of the recommendation or draft convention shall be authenticated by the signature of the President of the Conference and of the Director and shall be deposited with the Secretary-General of the League of Nations. The Secretary-General will communicate a certified copy of the recommendation or draft convention to each of the Members.

Each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than eighteen months from the closing of the session of the Conference,<sup>2</sup> bring the recommendation or draft convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action.

In the case of a recommendation, the Members will inform the Secretary-General of the action taken.

In the case of a draft convention, the Member will, if it obtains the consent of the authority or authorities within whose competence the matter lies, communicate the formal ratification of the convention to the Secretary-General and will take such action as may be necessary to make effective the provisions of such convention.

If on a recommendation no legislative or other action is taken to make a recommendation effective, or if the draft convention fails to obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member.

In the case of a federal State, the power of which to enter into conventions on labor matters is subject to limitations, it shall be in the discretion of that Government to treat a draft convention to which such limitations apply as a recommendation only, and the provisions of this Article with respect to recommendations shall apply in such case.

The above Article shall be interpreted in accordance with the following principle:

In no case shall any Member be asked or required, as a result of the adoption of any recommendation or draft convention by the Conference,

<sup>1</sup> Paragraph voted at the plenary session of April 11.

<sup>2</sup> "Or. . . . Conference" voted at the plenary session of April 11.



to lessen the protection afforded by its existing legislation to the workers concerned.<sup>1</sup>

ARTICLE 406 (20)

Any convention so ratified shall be registered by the Secretary-General of the League of Nations, but shall only be binding upon the Members which ratify it.

ARTICLE 407 (21)

If any convention coming before the Conference for final consideration fails to secure the support of two-thirds of the votes cast by the Delegates present, it shall nevertheless be within the right of any of the Members of the Permanent Organization to agree to such convention among themselves.

Any convention so agreed to shall be communicated by the Governments concerned to the Secretary-General of the League of Nations, who shall register it.

ARTICLE 408 (22)

Each of the Members agrees to make an annual report to the International Labor Office on the measures which it has taken to give effect to the provisions of conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request. The Director shall lay a summary of these reports before the next meeting of the Conference.

ARTICLE 409 (23)

In the event of any representation being made to the International Labor Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any convention to which it is a party, the Governing Body may communicate this representation to the Government against which it is made and may invite that Government to make such statement on the subject as it may think fit.

ARTICLE 410 (24)

If no statement is received within a reasonable time from the Government in question, or if the statement when received is not deemed to be satisfactory by the Governing Body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.

ARTICLE 411 (25)

Any of the Members shall have the right to file a complaint with the International Labor Office if it is not satisfied that any other Member is

<sup>1</sup> Paragraph appeared as a protocol in the draft convention.

securing the effective observance of any convention which both have ratified in accordance with the foregoing Articles.

The Governing Body may, if it thinks fit, before referring such a complaint to a Commission of Inquiry, as hereinafter provided for, communicate with the Government in question in the manner described in Article 409. (23).

If the Governing Body does not think it necessary to communicate the complaint to the Government in question, or if, when they have made such communication, no statement in reply has been received within a reasonable time which the Governing Body considers to be satisfactory, the Governing Body may apply for the appointment of a Commission of Inquiry to consider the complaint and to report thereon.

The Governing Body may adopt the same procedure either of its own motion or on receipt of a complaint from a Delegate to the Conference.

When any matter arising out of Articles 410 (24) or 411 (25) is being considered by the Governing Body, the Government in question shall, if not already represented thereon, be entitled to send a representative to take part in the proceedings of the Governing Body while the matter is under consideration. Adequate notice of the date on which the matter will be considered shall be given to the Government in question.

#### ARTICLE 412 (26)

The Commission of Inquiry shall be constituted in accordance with the following provisions:

Each of the Members agrees to nominate within six months of the date on which the present Treaty comes into force three persons of industrial experience, of whom one shall be a representative of employers, one a representative of workers, and one a person of independent standing, who shall together form a panel from which the Members of the Commission of Inquiry shall be drawn.

The qualifications of the persons so nominated shall be subject to scrutiny by the Governing Body, which may by two-thirds of the votes cast by the representatives present refuse to accept the nomination of any person whose qualifications do not in its opinion comply with the requirements of the present Article.

Upon the application of the Governing Body, the Secretary-General of the League of Nations shall nominate three persons, one from each section of this panel, to constitute the Commission of Inquiry, and shall designate one of them as the President of the Commission. None of these three persons shall be a person nominated to the panel by any Member directly concerned in the complaint.

## ARTICLE 413 (27)

The Members agree that, in the event of the reference of a complaint to a Commission of Inquiry under Article 411 (25) they will each, whether directly concerned in the complaint or not, place at the disposal of the Commission all the information in their possession which bears upon the subject-matter of the complaint.

## ARTICLE 414 (28)

When the Commission of Inquiry has fully considered the complaint, it shall prepare a report embodying its findings on all questions of fact relevant to determining the issue between the parties and containing such recommendations as it may think proper as to the steps which should be taken to meet the complaint and the time within which they should be taken.

It shall also indicate in this report the measures, if any, of an economic character against a defaulting Government which it considers to be appropriate, and which it considers other Governments would be justified in adopting.

## ARTICLE 415 (29)

The Secretary-General of the League of Nations shall communicate the report of the Commission of Inquiry to each of the Governments concerned in the complaint, and shall cause it to be published.

Each of these Governments shall within one month inform the Secretary-General of the League of Nations whether or not it accepts the recommendations contained in the report of the Commission; and if not, whether it proposes to refer the complaint to the Permanent Court of International Justice of the League of Nations.

## ARTICLE 416 (30)

In the event of any Member failing to take the action required by Article 405 (19) with regard to a recommendation or draft Convention, any other Member shall be entitled to refer the matter to the Permanent Court of International Justice.

## ARTICLE 417 (31)

The decision of the Permanent Court of International Justice in regard to a complaint or matter which has been referred to it in pursuance of Article 415 (29) or Article 416 (30) shall be final.

## ARTICLE 418 (32)

The Permanent Court of International Justice may affirm, vary or reverse any of the findings or recommendations of the Commission of

Inquiry, if any, and shall in its decision indicate the measures, if any, of an economic character which it considers to be appropriate, and which other Governments would be justified in adopting against a defaulting Government.

#### ARTICLE 419 (33)

In the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, or in the decision of the Permanent Court of International Justice, as the case may be, any other Member may take against that Member the measures of an economic character indicated in the report of the Commission or in the decision of the Court as appropriate to the case.

#### ARTICLE 420 (34)

The defaulting Government may at any time inform the Governing Body that it has taken the steps necessary to comply with the recommendations of the Commission of Inquiry or with those in the decision of the Permanent Court of International Justice, as the case may be, and may request it to apply to the Secretary-General of the League to constitute a Commission of Inquiry to verify its contention. In this case the provisions of Articles 412 (26), 413 (27), 414 (28), 415 (29), 417 (31) and 418 (32) shall apply, and if the report of the Commission of Inquiry or the decision of the Permanent Court of International Justice is in favor of the defaulting Government, the other Governments shall forthwith discontinue the measures of an economic character that they have taken against the defaulting Government.<sup>1</sup>

### CHAPTER III

#### GENERAL

#### ARTICLE 421 (35)

The Members engage to apply conventions which they have ratified in accordance with the provisions of this Part of the present Treaty to their colonies, protectorates and possessions which are not fully self-governing:

(1) Except where owing to the local conditions the convention is inapplicable, or

(2) Subject to such modifications as may be necessary to adapt the convention to local conditions.

And each of the Members shall notify to the International Labor

<sup>1</sup>The phraseology of Chapter II in so far as it related to describing members in dispute was modified by the Drafting Commission.

Office the action taken in respect of each of its colonies, protectorates and possessions which are not fully self-governing.<sup>1</sup>

ARTICLE 422 (36)

Amendments to this Part of the present Treaty which are adopted by the Conference by a majority of two-thirds of the votes cast by the Delegates present shall take effect when ratified by the States whose representatives compose the Council of the League of Nations and by three-fourths of the Members.<sup>2</sup>

ARTICLE 423 (37)

Any question or dispute relating to the interpretation of this Part of the present Treaty or of any subsequent convention concluded by the Members in pursuance of the provisions of this Part of the present Treaty shall be referred for decision to the Permanent Court of International Justice.

CHAPTER IV

TRANSITORY PROVISIONS

ARTICLE 424 (38)

The first meeting of the Conference shall take place in October, 1919. The place and agenda for this meeting shall be as specified in the Annex hereto.

Arrangements for the convening and the organization of the first meeting of the Conference will be made by the Government designated for the purpose in the said Annex. That Government shall be assisted in the preparation of the documents for submission to the Conference by an International Committee constituted as provided in the said Annex.

The expenses of the first meeting and of all subsequent meetings held before the League of Nations has been able to establish a general fund, other than the expenses of Delegates and their advisers, will be borne by the Members in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union.

ARTICLE 425 (39)

Until the League of Nations has been constituted all communications which under the provisions of the foregoing Articles should be addressed to the Secretary-General of the League will be preserved by the Director

<sup>1</sup>This article was edited to conform to the organization of the League of Nations.

<sup>2</sup>An original Article 36 was incorporated in Article 387 (1) by the Drafting Commission.



of the International Labor Office, who will transmit them to the Secretary-General of the League.

#### ARTICLE 426 (40)

Pending the creation of a Permanent Court of International Justice disputes which in accordance with this Part of the present Treaty would be submitted to it for decision will be referred to a tribunal of three persons appointed by the Council of the League of Nations.

### ANNEX

#### FIRST MEETING OF ANNUAL LABOR CONFERENCE, 1919

The place of meeting will be Washington.

The Government of the United States of America is requested to convene the Conference.

The International Organizing Committee will consist of seven Members, appointed by the United States of America, Great Britain, France, Italy, Japan, Belgium and Switzerland. The Committee may, if it thinks necessary, invite other Members to appoint representatives.

#### Agenda:

- (1) Application of principle of the 8-hours day or of the 48-hours week
- (2) Question of preventing or providing against unemployment.
- (3) Women's employment:
  - (a) Before and after child-birth, including the question of maternity benefit:
  - (b) During the night;
  - (c) In unhealthy processes.
- (4) Employment of children:
  - (a) Minimum age of employment;
  - (b) During the night;
  - (c) In unhealthy processes.

(5) Extension and application of the International Conventions adopted at Bern in 1906 on the prohibition of night work for women employed in industry and the prohibition of the use of white phosphorus in the manufacture of matches.

### SECTION II

#### GENERAL PRINCIPLES

#### ARTICLE 427

The High Contracting Parties, recognizing that the well-being, physical, moral and intellectual, of industrial wage-earners is of supreme

international importance, have framed, in order to further this great end, the permanent machinery provided for in Section I and associated with that of the League of Nations.

They recognize that differences of climate, habits and customs, of economic opportunity and industrial tradition, make strict uniformity in the conditions of labor difficult of immediate attainment. But, holding as they do, that labor should not be regarded merely as an article of commerce, they think that there are methods and principles for regulating labor conditions which all industrial communities should endeavor to apply, so far as their special circumstances will permit.

Among these methods and principles, the following seem to the High Contracting Parties to be of special and urgent importance:

*First.*—The guiding principle above enunciated that labor should not be regarded merely as a commodity or article of commerce.

*Second.*—The right of association for all lawful purposes by the employed as well as by the employers.

*Third.*—The payment to the employed of a wage adequate to maintain a reasonable standard of life as this is understood in their time and country.

*Fourth.*—The adoption of an eight hours' day or a forty-eight hours' week as the standard to be aimed at where it has not already been attained.

*Fifth.*—The adoption of a weekly rest of at least twenty-four hours, which should include Sunday wherever practicable.

*Sixth.*—The abolition of child labor and the imposition of such limitations on the labor of young persons as shall permit the continuation of their education and assure their proper physical development.

*Seventh.*—The principle that men and women should receive equal remuneration for work of equal value.

*Eighth.*—The standard set by law in each country with respect to the conditions of labor should have due regard to the equitable economic treatment of all workers lawfully resident therein.

*Ninth.*—Each State should make provision for a system of inspection in which women should take part, in order to insure the enforcement of the laws and regulations for the protection of the employed.

Without claiming that these methods and principles are either complete or final, the High Contracting Parties are of opinion that they are well fitted to guide the policy of the League of Nations; and that, if adopted by the industrial communities who are members of the League, and safeguarded in practice by an adequate system of such inspection, they will confer lasting benefits upon the wage-earners of the world.

## VII. GERMANY'S EFFORT TO CHANGE THE PROVISIONS

The German Delegation received the Peace Treaty at Versailles on May 7. It had been provided in the preliminaries that no oral negotiations should take place with the Germans. It was, however, possible for them to express their opinions and to seek modifications by exchanges of notes in the text of the draft treaty presented to them. Such exchanges took place at some length. Those relating to the labor section of the Treaty are as follows:

1. The President of the German Peace Delegation to the President of the Peace Conference. [Translation]

German Peace Delegation

Versailles, May 10, 1919.

To His Excellency, the President of the Peace Conference.

Sir:

With reference to Articles 55 and 56 of the proposals for the establishment of a League of Nations submitted by us,<sup>1</sup> we beg herewith to transmit the draft of an International Agreement on Labor Law, prepared by the German Government.<sup>2</sup>

The German Government is of one mind with the Allied and Associated Governments in holding that the greatest attention must be given to labor questions. Domestic peace and the advancement of mankind depend vitally on the adjustment of this question. The demands for social justice repeatedly raised in this respect by the working classes of all nations are only partly realized in principle in Section XIII of the draft of Peace Conditions of the Allied and Associated Governments on the Organization of Labor. These sublime demands have for the most part been realized in Germany with the assistance of the working classes, as is

<sup>1</sup> The articles referred to are as follows:

“55. One of the chief tasks of the League shall be to assure to the working classes of all member states an existence worthy of human beings and pleasure in their work. For this purpose a special agreement, appended as a supplement, shall regulate for the workers the questions of freedom of movement, right of coalition, equality as between natives and foreigners in respect of conditions of work, labor arbitration, state insurance, protection of labor, conditions of home labor, supervision of labor, and the international realization and development of these standards.

“56. For the supervision and extension of the labor code there shall be instituted a Universal Labor Department in the Chancellery of the League.”

<sup>2</sup> Not printed.

generally acknowledged, in an exemplary manner. In order to carry them into execution everywhere in the interest of mankind the acceptance of the program of the German Delegation is at least necessary.

We deem it requisite that all states should join the agreement, even though not belonging to the League of Nations.

In order to guarantee to the working classes, for whom the proposed improvements are intended, co-operation in the framing of these provisions, the German Delegation is of the opinion that representatives of the national trade union organizations of all contracting Powers should be summoned to a conference at Versailles to discuss and take decisions on international labor law, before the peace negotiations are terminated.

The proceedings of this conference should, in the opinion of the German Delegation, be based on the resolutions of the International Trade Unions Conference in Bern (February 5 to 9, 1919) and the program for International Labor Legislation, addressed to the Peace Conference in Paris, which emanated from the decisions of the International Trade Unions Conference in Leeds in 1916. At the request of the Trade Unions of Germany we beg to inclose a copy of these resolutions, which have been adopted by representatives of the Trade Union organizations of Bohemia, Bulgaria, Denmark, Germany, France, Greece, Holland, Italy, Canada, Norway, Austria, Sweden, Switzerland, Spain and Hungary.

Accept, Sir, the assurance of my highest esteem.

(Signed) BROCKDORFF-RANTZAU.

#### INCLOSURES

a. Labor Charter adopted by the International Trade Unions Conference, Bern, February 5-9, 1919.

Under the wage system, the capitalist class endeavor to increase their profits by exploiting the workers as much as possible. Such methods if they are unchecked undermine the physical, moral and intellectual powers of the workers and their children. They prevent the development and even endanger the existence of society. The capitalist attempt to degrade the workers can only be entirely removed by the abolition of the capitalist system. But the evil can be strongly mitigated both by the resistance of the organized workers and by the intervention of the state. By this means, the health of the workers may be protected and their family life maintained, and they can secure the opportunity of attaining the education needed to enable them to fulfill their duties as citizens in the modern democracy.

The limits which capitalism has reached are very different in the various countries. One of the dangers here involved is that the industry and labor of the more progressive countries are injured by a system of sweated labor in the more backward countries. The need to establish an international standard of labor legislation has been rendered doubly

urgent by the terrible upheaval and fearful devastation of the life-forces of the people brought about by the war. The foundation of a League of Nations, however, will make it possible to satisfy this need.

The Bern Conference having taken into consideration the resolution adopted by the International Trade Union Conferences of Leeds and Bern, and without prejudice to any more far-reaching resolutions which may be adopted by trade unions, demands that the following minimum requirements, which are already carried out in part in some countries, shall be converted into a code of international law by the League of Nations on the conclusion of peace:

1. Primary education should be compulsory in all countries and a system of technical education established. Higher education should be established in all countries and should be free and accessible to all. Capacity and aspirations should not be thwarted by the material conditions in which a young person lives. Children under 15 years of age shall not be employed in industrial occupations.
2. Young persons between 15 and 18 years of age shall not be employed more than six hours a day with a break of one and one-half hours after a maximum of four hours' work. At least two hours of instruction in technical and continuation classes shall be given to the young persons of both sexes, daily, between the hours of 8 a. m. and 6 p. m. The young persons must be allowed time off to attend the classes. The employment of young persons shall be prohibited (a) between the hours of 8 p. m. and 6 a. m., (b) on Sundays and holidays, (c) in especially unhealthy trades, (d) in mines below ground.
3. The hours of work of women workers shall not exceed four on Saturdays. They shall not be employed after midday on Saturdays. Where exceptions are necessary in certain occupations, the women workers concerned shall be allowed an equivalent half-holiday on another day of the week. Women shall not be employed at night. The employer shall not give women work to do at home after their regular day work. Women shall not be employed in especially dangerous trades which it is impossible to make healthy, nor in mines, either above or below ground. Women shall not be allowed to work for ten weeks altogether before and after child-birth, six weeks of which shall be taken after the confinement. In every country a system of maternity insurance shall be introduced, providing compensation at least equal to the sickness insurance benefit payable in the country concerned. Women shall receive the same pay as men for the same job.
4. Hours of work shall not exceed eight a day or 48 a week. Night work between the hours of 8 p. m. and 6 a. m. shall be prohibited by law except in so far as may be unavoidable for technical reasons or from the nature of the occupation. Where night work is allowed it shall be paid at a higher rate than day work. The Saturday half-holiday shall be introduced in all countries.
5. Workers shall be allowed a continuous weekly rest of at least 46 hours taken from Saturday to Monday morning. Where the work is



such that an exception to the prohibition of Sunday work must be allowed, the weekly rest of 36 hours shall be granted during the week. In continuous industries the shifts must be so arranged that the workers have at least every other Sunday free. But these provisions should be adapted to the cases of countries and groups for which another day of rest is customary. Where night work and Sunday work are allowed, they must be paid for at a higher rate.

6. With a view to the protection of health and prevention of accidents, the daily hours of work shall be reduced below eight hours in dangerous trades. The use of poisonous material shall be prohibited in all cases where it is possible to procure substitutes for them. An international schedule of industrial poisons, which are prohibited, shall be kept. The use of white phosphorus in the manufacture of matches and of white lead in painting and decorating work (both indoor and outdoor) shall be prohibited immediately. The railway wagons of all countries must, within five years, be fitted with automatic couplers adaptable to all wagons.

7. All laws and orders dealing with the protection of workers shall apply in principle to home industries.

Social insurance laws shall be extended to home industries.

Home work shall be prohibited: (a) In the case of work liable to give rise to serious injury to health or poisoning; (b) in food industries, including the making of bags and cardboard boxes for packing articles of food.

In home industries it should be compulsory to give notice of all infectious diseases. Work in dwelling places where there is infectious disease should be prohibited, suitable compensation being paid. It should be agreed that compulsory lists of workers and middle-men in home industries shall be kept and inspected and that all the workers should have wages books.

The medical inspection of young persons employed in home industries should be arranged, and also the inspection of dwelling houses. In all districts where there is home work, wages boards, representatives of employers and workers, shall be instituted, with the duty of fixing legal rates of wages. The rates of wages shall be posted up in the work places.

8. The workers shall have the right of free combination and association in all countries. Laws and decrees (domestic service laws, prohibition of coalition, etc.) which place certain classes of workers in an exceptional position in relation to other workers, or which deprive them of the right of combination and association and of the representation of their economic interests, shall be repealed. Emigrant workers shall enjoy the same rights as the workers of the country into which they immigrate, as regards joining and taking part in the work of trade unions, including the right to strike.

Any interference with the exercise of the right of combination and association should be punished.

Every foreign worker shall have a right to the wages and conditions

of work agreed to between the trade union and the employers of his trade. Where no such agreements exist, foreign workers shall have a right to the wages customary in the locality for their trade.

9. Emigration shall not be prohibited.

Immigration shall not be prohibited in a general way. This rule shall not affect:

(a) The right of any state to restrict immigration temporarily in a period of economic depression in order to protect the workers of that country as well as the foreign immigrant workers.

(b) The right of any state to control immigration in order to protect the public health and to prohibit immigration for the time being.

(c) The right of any state to require that the immigrant shall come up to a certain minimum standard in reading and writing his native language, so as to maintain the standard of popular education of the state in question to enable labor regulations to be effectively applied in the branches of industry in which immigrants are employed.

These exceptions can however only be admitted in agreement with the Commission provided for in Art. 15.

The contracting states undertake to adopt without delay laws prohibiting the engagement of workers by contract to work abroad, putting a stop to the activities of private employment agents in this matter, and prohibiting the admission of workers engaged by contract.

The contracting states undertake to compile statistics of the state of the labor market based upon the returns of public labor exchanges, and to exchange such statistics at as short periods as possible through an international center, so that the workers may avoid going to countries offering few opportunities for work. These reports should in particular be communicated to the workers' trade unions.

No workers shall be expelled from a country on account of trade-union action. Appeals against such a deportation shall be dealt with by the ordinary courts.

10. In cases where the average earnings of the workers (whether men or women) are insufficient to provide a proper standard of living, and it proves impossible to bring about collective agreements between the trade unions and the employers, the Government shall set up wages boards, on which employers and workers shall be equally represented, with the object of fixing legal minimum rates of wages.

Moreover, the contracting states shall convoke as speedily as possible an international conference charged to take effective measures against the reduction of value of wages and assure their payment in money which has not depreciated in value.

11. In order to reduce unemployment, existing labor exchanges in every country shall be linked up in such a manner that they can provide as far as possible prompt and complete information as regards the demand for and supply of labor. A system of unemployment insurance shall be set up in every country.

12. All workers shall be insured by the state against industrial accidents. The claims of workers and their dependents shall be determined in accordance with the law of the country where the undertaking employing the injured worker is domiciled. Laws for the insurance of widows and orphans, and old age and disablement insurance laws, shall be introduced, and shall apply equally to persons native to the country and to foreigners. A foreign worker, leaving the country in which he was employed, may be given a sum down instead of annual compensation, if an agreement on this subject has been come to between the state where he was employed and his home country.

13. A special international code of law for the protection of seamen shall be established. This code shall be drawn up with the collaboration of seamen's unions.

14. The enforcement of these provisions shall, in the first place, rest with the Labor Departments of each state and their industrial inspectors. The inspectors shall be appointed from the ranks of technical, hygienic and economic experts, and also shall include workers and employees (both men and women). The trade unions shall assist in the effective enforcement of the labor laws. Employers who employ at least five workers of foreign tongues shall be required by law to post up in the mother tongue of such workers all labor regulations and other important notices and also to arrange at their own expense for such workers to be given instruction in the language of the country.

15. With a view to the carrying out of this treaty and the further promotion of international labor regulations, the contracting states shall appoint a permanent Commission consisting in equal parts of representatives of the states which are members of the League of Nations and of the International Trade Union Federation. The Commission shall prepare the ground for, and convoke conferences of representatives of the contracting states, which shall be held every year to promote international labor legislation. One-half of the voting members of the conference must consist of representatives of the organized workers of every country. The conferences shall have power to adopt binding resolutions within the scope of the powers conferred upon them.

The Permanent Commission shall co-operate with the International Labor Office in Basel and the International Trade Union Federation.

b. Resolutions of the International Labor Conference Leeds July, 1916, and of International Trade Union Conference, Bern, October 4, 1917.

[See Stephan Bauer, International Labor Legislation and the Society of Nations, 123-129. (U. S. Department of Labor, Bureau of Labor Statistics, Bulletin No. 254.)]

2. The President of the Peace Conference to the President of the German Delegation.

Sir:

Paris, May 14, 1919.

I have the honor to acknowledge receipt of your letter of May 10, in regard to international labor legislation, together with draft of international

agreement on labor law. The reply of the Allied and Associated Governments is as follows:

(1) They take note of the declaration made by the German delegates that domestic peace and the advancement of mankind depend upon the adjustment of labor questions and they are convinced that such adjustment will be rendered easier in the future than in the past as men's minds are freed from the fear of war, and industry relieved of the burden of armaments which German militarism had imposed upon it. Part XIII of the draft Conditions of Peace provides the means by which such adjustment can be made and Section II of that Part lays down the principles which will progressively guide the Labor organization and the League of Nations. Article 427 indicates clearly that the enumeration of the principles set forth is not exhaustive. The purpose of the labor organization is that it should promote the constant development of the International Labor Régime.

(2) The Labor Convention has been inserted in the Treaty of Peace and Germany will therefore be called upon to sign it. In the future the right of your country to participate in the labor organization will be secured, so soon as she is admitted into the League of Nations in accordance with Article I of the Treaty.

(3) It has not been thought necessary to summon a labor conference at Versailles. The conclusions of the Syndical Conference at Bern, which are reproduced in the draft of the international agreement on labor law referred to in the first paragraph of your letter of the 10th instant, had already been studied with the closest attention. Representatives of the trade unions have taken part in the preparation of the articles relating to labor. As appears, moreover, from the annex to Section II of Part XIII, page 200, the program of the first session of the International Labor Conference to be held at Washington next October, comprises the most important of the questions raised at the Syndical Conference at Bern. Trade unions will be invited to take part in that conference, and it will be held under definite rules, which provide for due effect being given to conclusions, subject only to the assent of the competent authorities in the countries represented.

(4) The draft international agreement on labor law, prepared by the German Government, is deficient, in that it makes no provision for the representation of labor at the international conferences proposed. It is also inferior to the provisions submitted in Part XIII of the Peace Conditions in the following respects:

(a) Five years is suggested as the maximum interval between conferences (Art. VII).—The Peace Conditions . . . one year (Art. 389).

(b) "Each country has one vote" (Art. VII).—The Peace Conditions



give a vote to each delegate, whether representing a Government, employers or workers (Art. 390).

(c) "Resolutions are only binding if carried by a majority of four-fifths of the voting countries" (Art. VII).—The Peace Conditions provide that a majority of two-thirds only of the votes cast shall be necessary on the final vote for the adoption of a recommendation or draft convention by the Conference (Art. 405).

The Allied and Associated Governments are therefore of opinion that their decisions give satisfaction to the anxiety which the German Delegation professes for social justice and insure the realization of reforms which the working classes have more than ever a right to expect after the cruel trial to which the world has been subjected during the last five years.

Accept, Sir, etc. . . .

(Signed) G. CLEMENCEAU.

His Excellency Count BROCKDORFF-RANTZAU,  
*President of the German Delegation.*

3. The President of the German Peace Delegation to the President of the Peace Conference.

[Translation]

German Peace Delegation

Sir:

Versailles, May 22, 1919.

In the name of the German Delegation I have the honor to acknowledge the receipt of your Reply-note, dated May 14, 1919, which has been given us on our Note concerning international labor legislation.

The German Delegation takes note of the fact that the Allied and Associated Governments are of one mind with the German Democratic Government in believing domestic peace and the advancement of humanity to be dependent on the solution of labor questions. The German Delegation, however, does not agree with the Allied and Associated Governments as to the ways and means of arriving at the solution.

In order to avoid misunderstandings and false impressions, the German Delegation deems it to be necessary to elucidate the fundamental conditions precedent underlying their note of May 10, 1919.

In the opinion of the German Democratic Government the final decision in questions of labor law and labor protection belongs to the workers *themselves*. It was the intention of the German Delegation to give occasion, even while the negotiations of Peace are proceeding, to the legitimate representatives of the working people of all countries of casting their vote on this point and bringing into conformity the Draft of the Conditions of Peace, the proposal of the German Democratic Govern-



ment and the resolutions of the International Trade Unions Conference held at Bern from February 5 to 9, 1919. Contrary to this proposal, the Allied and Associated Governments do not think necessary to call a labor conference at Versailles for this purpose.

The International Labor Conference contemplated to be held at Washington, to which you refer in your Reply-note of May 14, 1919, can not replace the conference demanded by us, because it is to be held on the principles which are established by the Draft of the Treaty of Peace for the organization of labor. The latter, however, disregards the demands raised by the International Trade Union Conference at Bern in two material directions.

The first divergence is in respect of the representation of the workers. According to the proposal of the International Labor Conference at Bern one-half of the members of the conference entitled to vote must consist of representatives of the workers of each country who are organized in trade unions. The German Delegation has indorsed this proposal by transmitting the protocol of the International Trade Union Conference at Bern. Contrary to this, the Draft of the Treaty of Peace grants to the workers only one-quarter of the total votes at the International Conference; for, according to the Draft of the Allied and Associated Governments, each country is to be represented by two Government Delegates, one employer and only one worker. The Governments are even in a position, according to Article 390 of the Draft of the Treaty of Peace, to exclude the worker's vote by not nominating an employer and thus giving to governmental bureaucrats the casting vote as against the representatives of practical life. This system is at variance with the democratic principles which have, to the present day, been upheld and fought for in common by the whole international workpeople, and will deepen the impression held among the workers that they are, as before, furthermore only to be the object of a legislation governed by the interest of private capital.

The second divergence refers to the legally binding force of the resolutions of the Conference. According to the resolutions of the International Trade Union Conference at Bern, the international parliament of labor is to issue not only international conventions without legally binding force, but also international laws which, from the moment of their adoption, are to have the same effect (legally binding force) as national laws (proclamation to the workers of all countries, adopted by the International Trade Union Conference at Bern, 1919, at the motion of Jouhaux, the delegate of France). The draft of the German Democratic Government indorses this resolution and makes the passing of such laws depend on the assent of four-fifths of the nations represented. No such resolutions can be passed by a conference which is called on the basis of Part XIII of the

Draft of the Treaty of Peace, but only recommendations or drafts which the Governments concerned may adopt or repudiate—and for such non-obligatory proposals a majority of two-thirds of the votes cast is even required.

In so providing, the Draft of the Conditions of Peace deviates to such an extent from the resolutions of the International Trade Union Conference at Bern that a discussion and decision by the organizations of labor, as part of the Peace Negotiations, is absolutely imperative. This would at the same time be in accordance with the demand raised by the International Trade Union Conference at Bern that a minimum of claims of labor agreed upon be, already at the conclusion of Peace, turned into international law by the League of Nations. Moreover, a firm foundation for the Peace of the world will be erected by this means, whereas a Treaty concluded by the Governments alone without the assent of the organized workers of all countries will never bring forth social peace to the world.

The Allied and Associated Governments give no place to these considerations in their Reply. As above illustrated, the resolutions of the International Trade Union Conference at Bern are, in fact, not taken into consideration by Part XIII of the Draft of the Treaty of Peace, so that the fears expressed by the German Democratic Government with regard to social justice are in reality not taken into account. This fact must be noted. If we are apprized by the Reply-note that the representatives of the trade unions of the countries represented by the Allied and Associated Governments have taken part in the elaboration of the clauses of the Conditions of Peace relating to labor, we must on the other hand make note of the fact that they have made no announcement of any kind notifying a change of their views on the resolution of the International Trade Union Conference at Bern, much less of an abandonment of these resolutions which they themselves have adopted.

The German Delegation again moves to call a conference of the representatives of the national organizations of all trade unions, before the Negotiations of Peace are terminated. Should this motion again be rejected, an utterance of the leaders of the trade unions of all countries is at least necessary. In moving this in the second line, we desire to bring about, that the provisions of the Treaty of Peace relating to Labor may also have the approval of all trade union organizations.

Accept, Sir, the assurance of my high esteem.

(Signed) BROCKDORFF-RANTZAU.

To His Excellency the President of the Peace Conference, etc.

Mr. CLEMENCEAU.

4. The President of the Peace Conference to the President of the German Peace Delegation.

*Conference de la Paix.*  
*Le President.*

Paris, May 31, 1919.

Sir:

In the name of the Allied and Associated Governments I have the honor to acknowledge the receipt of your further Note dated May 22, 1919, on the subject of international labor legislation. (Conditions of Peace, Part XIII.)

The reply is as follows:

1. The German Delegation states the principle for the German National Government that to the wage-earners belongs the final decision in questions of labor law. The Allied and Associated Democracies, who have had a very long experience of democratic institutions, hold it to be their duty to collaborate with labor in the formulation of such law. But the laws must be passed by representatives of the whole community.
2. The Allied and Associated Governments draw attention to a fundamental misconception in the Note of the German Government of May 22, 1919, namely, that the views and interests of Governments must necessarily be antagonistic to those of labor. Accredited labor representatives now form part of some of the genuine democratic Governments of the world, and the assumed antagonism is not likely to be found anywhere save in the case of Governments which are democratic only in name.
3. The Allied and Associated Governments fail to find in your letter any useful guidance as to how the principles involved could in any case find definite expression in the Peace Treaty. The labor organization which was submitted to representatives of labor can deal in a practical manner with any proposal put forward by any one of the affiliated members. It is not correct to say that the demands raised by the International Trade Union Congress at Bern are disregarded, inasmuch as the points raised in these resolutions, as well as all other relevant considerations, were discussed and carefully considered, and for the most part are embodied in the Preamble of Part XIII or in the general principles which are accepted to guide the League of Nations and the Labor Organization in the attainment of social justice. There is manifestly no need for another conference to repeat those resolutions or to cause unnecessary confusion or delay by adding to or departing from them.

The widest publicity has been given to the plan of labor organization, and the responsible trade union leaders have been given an ample opportunity to formulate definite suggestions.

4. The Allied and Associated Governments have already decided to accept the idea of early admission of German representatives and to ask the Washington Conference to admit them immediately thereafter to full membership and rights in respect to the International Labor Organization and the Governing Body attached thereto.

5. While the resolution passed by the Bern Conference in February, 1919, gave expression to the wishes of the workers and defined their aspirations for the future, the Washington Conference provides the means of giving effect to such of these aspirations as can be embodied in legislation without delay, and the Labor Organization will give opportunities for progressive expression to others, in accordance with the guiding principles already mentioned. The Labor Commission set up by the Peace Conference, moreover, envisaged all the points mentioned in your letter, as coming within the scope of the Labor Organization, including an international code of law for the protection of seamen, to be specially drawn up with the collaboration of the Seamen's Union. (Copy annexed.)

6. It also adopted a resolution (copy annexed) in favor of the organization being given power, as soon as possible, to pass resolutions possessing the force of international law. International labor laws can not at present be made operative merely by resolutions passed at conferences. The workers of one country are not prepared to be bound in all matters by laws imposed on them by representatives of other countries; international conventions as provided for under the Peace Treaty are therefore at present more effective than international labor laws, for the infringement of which no penal sanctions can be applied.

7. In reply to the statement as to divergence from democratic principles, the proposal of the Allied and Associated Governments, as has already been pointed out, goes farther than that of the German proposition, for three-quarters of the delegates at the Labor Conference will directly and indirectly represent the wishes of the population, the two Government delegates representing the people at large and the labor delegates representing the workers directly, the employers of labor being granted a representation of only one-quarter. The theory of the German Delegation that Article 390 of the draft "may exclude the workers" is wholly fallacious, as the so-called governmental representatives, at least those of the Allied and Associated Powers, would be representatives of the people of those countries. It is to be remembered that in many countries a very large part of the workers are engaged in agriculture and that these workers are not generally united in industrial organizations,



and it is therefore peculiarly appropriate that their interest should be represented on labor conferences through the Governments.

8. Furthermore, the proposal of the German Delegation would permit the prevention of the most beneficent legislation if it was opposed by one-fifth of the Governments represented at the Labor Conferences. It is of particular importance to notice that, according to the proposal of the German Delegation, each country in such a conference would have one vote and thus the votes of Governments representing perhaps only an insignificant minority of the workers of the world would be able to defeat any proposal whatsoever. In striking contrast with this autocratic idea is the proposal of the Allied and Associated Powers, which not only permits voting in conferences to be by delegates and not by Governments, but also permits a definite proposal to be made by two-thirds of the delegates.

9. At the present time active preparations are being made for the first meeting of the International Labor Organization in October. It is obvious, therefore, that no need exists for interposing a labor conference at Versailles. Moreover, the suggestion of the German Delegation that the peace negotiations should be delayed in order to permit of another labor conference is contrary to the interests of the workers throughout the world, who are more interested than anyone else in a return to peace and a relief from the conditions produced by four years of German aggression. The Allied and Associated Governments, taking account of this most just desire, are endeavoring not to postpone, but on the contrary to hasten the conclusion of peace, and to secure the adoption of those measures of social amelioration which would doubtless have been adopted ere this had it not been that the commencement of the war by Germany turned the efforts and thoughts of the world's population toward a struggle for liberty, during which time other ideals were necessarily subordinated to that of freedom itself.

I have, etc.

CLEMENCEAU.

(Inclosures)

To His Excellency

Count BROCKDORFF-RANTZAU,

*President of the German Delegation, Versailles.*

## ANNEX I

The Commission considers that the very special questions concerning the minimum conditions to be accorded to seamen might be dealt with at a special meeting of the International Labor Conference devoted exclusively to the affairs of seamen.



## ANNEX II

The Commission expresses the hope that as soon as it may be possible an agreement will be arrived at between the High Contracting Parties with a view to endowing the International Labor Conference under the auspices of the League of Nations with power to take, under conditions to be determined, resolutions possessing the force of international law.

## VIII. PREPARATIONS FOR THE CONFERENCE

The Organizing Committee provided for by the Annex to Section XIII of the Treaty was appointed shortly after the plenary session of the Peace Conference on April 11. It began work without delay. Within a month it prepared a circular call for the Washington Conference inclosing a questionnaire respecting the program for the conference. The circular reads:

## LEAGUE OF NATIONS

May 10th, 1919.

INTERNATIONAL LABOR CONFERENCE,  
OFFICES OF THE ORGANIZING COMMITTEE,  
53, PARLIAMENT STREET,  
LONDON, S. W. 1.

Sir:

The Peace Conference at its plenary sitting on the 11th April, approved the draft Convention submitted to it by the Commission on International Labor Legislation. The text of the Convention as accepted by the Peace Conference is inclosed herewith. The Convention provides for the institution of an International Organization, to which all the Members of the League of Nations will belong, and which will consist of an International Labor Conference and an International Labor Office, as part of the machinery of the League of Nations. It further provides in Article 38 and the Annex that the first meeting of the International Labor Conference shall take place at Washington in October of this year, and that an International Organizing Committee should be appointed to assist the Government of the United States of America in making the necessary arrangements. At its plenary sitting the Peace Conference approved the immediate appointment of the Organizing Committee and authorized it to proceed with its work at once. In accordance with the terms of the Convention the Committee has been constituted as follows:

UNITED STATES OF AMERICA: Dr. J. T. Shotwell (provisionally), professor at Columbia University.

GREAT BRITAIN: Sir Malcolm Delevingne, K.C.B., assistant under-secretary of state, Home Office.

FRANCE: Mr. Arthur Fontaine, councillor of state, Director of Labor.

ITALY: Mr. di Palma Castiglione, inspector of emigration.

JAPAN: Dr. M. Oka, formerly director of commercial and industrial affairs at the Ministry of Agriculture and Commerce.

BELGIUM: Mr. E. Mahaim, professor at Liège University.

SWITZERLAND: Mr. W. E. Rappard (provisionally), professor at Geneva University.

Mr. Arthur Fontaine was elected Chairman, and Mr. H. B. Butler, C.B., assistant secretary of the Ministry of Labor, was appointed Secretary.

The offices of the Committee will for the present be at 53, Parliament Street, London, S. W. 1, but will be transferred to the Ministry of Labor, Washington, at the beginning of September, 1919. All communications should be addressed to the Secretary at the London office.

The Organizing Committee now has the honor to transmit a questionnaire in regard to the Agenda for the first Conference laid down in the Annex to the Convention and to bring to the notice of your Government certain other points dealt with in the Convention, to which their attention is desirable in view of the forthcoming Conference at Washington.

### *Agenda*

In drawing up the questionnaire, the Committee have aimed at obtaining the most complete information available in regard to the existing legislation and practice in the different countries in respect of the subjects referred to in the various items of the Agenda, and the proposals of the respective Governments as to how they should be dealt with by the Conference. When this information is received, the Committee propose to collate and tabulate the results in a printed statement, and to draw up suggestions for draft conventions or recommendations, based on the information received, for submission to the Conference as a basis for discussion. These documents will be communicated to the Delegates appointed to take part in the Conference through their respective Governments.

In view of the short time at the Committee's disposal, if the work of collating and circulating the results of their present inquiry is to be completed in time to enable the Delegates to study them before departing for Washington, the Committee respectfully request that the answers to the questionnaire may be forwarded to them at the earliest possible date, and in any case that they should not reach London later than the 30th June.

In order further to facilitate the work of collating and tabulating the answers, it is also requested that they may, where possible, be accompanied by a translation into either English or French, unless one of these languages is used in the original. In order further to save time, and in the spirit of Article 11 of the Convention, it is suggested that the Government Department intrusted with the collection of the necessary information in each country should be instructed to forward it direct to the offices of the Organizing Committee.

*Preliminary Business*

The Organizing Committee would also point out that the following items of business relating to the internal procedure of the Conference will have to be dealt with by the Conference.

1. The appointment of the Governing Body of the International Labor Office.

2. The approval of rules of procedure, of which a draft is being prepared by the Committee and will be circulated with the documents above mentioned.

*Appointment of Delegates and Advisers*

As regards the points in the Convention itself which require attention in view of the forthcoming Conference, the Committee desire respectfully to call attention of your Government to the following provisions of the Convention:

Article 3 provides that the Conference "shall be composed of four Representatives of each of the Members, of whom two shall be Government Delegates and the two others shall be Delegates representing respectively the employers and the workpeople of each of the Members.

"Each Delegate may be accompanied by advisers, who shall not exceed two in number for each item on the agenda of the meeting. When questions specially affecting women are to be considered by the Conference, one at least of the advisers should be a woman.

"The Members undertake to nominate non-Government Delegates and advisers chosen in agreement with the industrial organizations, if such organizations exist, which are most representative of employers or workpeople, as the case may be, in their respective countries.

"Advisers shall not speak except on a request made by the Delegate whom they accompany and by the special authorization of the President of the Conference, and may not vote.

"A Delegate may, by notice in writing addressed to the President, appoint one of his advisers to act as his deputy, and the adviser, while so acting, shall be allowed to speak and vote.

"The names of the Delegates and their advisers will be communicated to the International Labor Office by the Government of each of the members.

"The credentials of Delegates and their advisers shall be subject to scrutiny by the Conference, which may, by two-thirds of the votes cast by the Delegates present, refuse to admit any Delegate or adviser whom it deems not to have been nominated in accordance with this article."

Your Government will accordingly in due course be requested by the Government of the United States of America to forward through its

Foreign Office the names of the Delegates who will represent it, together with those of the Delegates representing its employers and workpeople, and at the same time to forward the names of the advisers who will accompany the Delegates. The Committee would be much obliged if the names of the Delegates and advisers could be communicated to them at the same time.

Each Delegate may be accompanied by two advisers for each item on the agenda of the meeting, but where it is feasible advisers might well be appointed who can deal with more than one item. It should also be pointed out that as several of the questions on the agenda affect women, one at least of the advisers appointed should be a woman.

The last paragraph of Article 3 provides that the credentials of the Delegates and their advisers shall be subject to scrutiny by the Conference. It is accordingly requested that the nomination of each Delegate and adviser may be accompanied by a statement giving his qualifications, and also giving the names of the organizations in agreement with whom the Delegates and advisers of employers or workpeople were chosen.

The Committee respectfully suggest that it is of great importance for the success of the Conference that steps should be taken by each of the Governments to make widely known among associations of employers and workers the nature and objects of the International Organization, and to secure their interest and co-operation in the matter.

### *Expenses*

Under Article 13 each Government participating in the Conference will pay the traveling and subsistence expenses of its four Delegates and their advisers. Under Article 38 it is provided that all other expenses connected with the First Meeting will be borne by the Members of the League of Nations in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union. The United States Government having agreed to undertake the convening of the Conference, will make the necessary arrangements, and will in due course furnish the necessary information in regard to them to the Members.

We have to add that this letter is being addressed to the Governments of all the original Members of the League as set out in the Annex to the Covenant.

We have the honor to be, Sir, with great truth and respect,

Your obedient servants,

ARTHUR FONTAINE,

*Chairman.*

H. B. BUTLER,

*Secretary.*



The Conference is held in Washington by virtue of Public Resolution No. 9, 66th Congress, First Session, which reads as follows:

Resolved, etc., That the President of the United States be, and he hereby is, authorized to convene and to make arrangements for the organization of a general international labor conference to be held in Washington, D. C. Provided, however, That nothing herein shall be held to authorize the President to appoint any delegates to represent the United States of America at such conference or to authorize the United States of America to participate therein unless and until the Senate shall have ratified the provisions of the proposed treaty of peace with Germany with reference to a general international labor conference.

The American Department of State sent the following circular dispatch in mid-August to all Governments concerned:

The President of the United States, in accordance with the provisions of Part XIII of the Treaty of Peace between the Allied and Associated Powers and Germany signed at Versailles on June 28, 1919, and under authority vested in him by Congress, hereby convenes the first meeting of the annual labor conference therein described to assemble in Washington at noon on the 29th day of October, 1919.

The Government of the United States extends to each nation which is or which prior to the said meeting shall become a member of the international labor organization as defined in Article 387 an invitation to send its delegates and other representatives to Washington for the purpose of attending such conference.

You will also inform the Government to which you are accredited that all details as to reception of and accommodations for its representatives in Washington may be arranged through its diplomatic representative here. Please obtain and telegraph to the department the names of the delegates and their advisers. The cost of all telegrams should be stated therein in order that the department may obtain reimbursement.

You will also offer your aid in the matter of passports, transportation, etc.

## CASUALTIES OF THE WAR

N. B. Figures for Belgium, Greece, Hedjaz, Japan, Liberia, Portugal, Rumania and Serbia are not available, though all were active belligerents.

The figures for the British Empire, Hungary, Italy and Turkey are official.

	<i>Dead</i>	<i>Wounded</i>	<i>Missing and Prisoners</i>	<i>Total</i>
AMERICA	68,262 <sup>1</sup>	179,625	3,323	251,210
Army.....				
Navy.....				
BRITISH EMPIRE				
Army.....	673,943	2,047,211	161,800 <sup>2</sup>	2,882,954
Navy.....	22,258	4,894	23	27,175
Royal Air Force <sup>3</sup> .....	2,680	2,988	1,921	7,589
Civilian casualties (Air raids).....	1,570	4,041		5,611
FRANCE				
Army.....	1,071,300		750,300	1,821,600
ITALY <sup>4</sup>				
Army.....	462,991	953,886		1,416,877
Navy.....	3,169	5,252		8,421
RUSSIA (To Nov. 10, 1917). . .	1,700,000	4,950,000	2,500,000	9,150,000
Total for Allies .....	4,006,173	8,147,897	3,417,367	15,571,437
GERMAN EMPIRE				
Army.....	1,600,000	4,064,000	721,000	6,385,000
AUSTRIA				
Army.....	800,000	3,200,000		4,000,000
HUNGARY				
Army.....	471,193	590,000	736,282	1,797,475 <sup>5</sup>
TURKISH EMPIRE				
Army.....	436,974	407,772	103,731	948,477
Total for enemy.....	3,308,167	8,261,772	1,561,013	13,130,952
Grand total.....	7,314,340	16,409,669	4,978,380	28,702,389

<sup>1</sup>Includes 2,129 deaths in Marine Corps; 451 in Russia; does not include 32,165 deaths in United States.

<sup>2</sup>Prisoner total lacking. The number represents deaths presumed on lapse of time and missing February, 1919.

<sup>3</sup>April 1 to November 11, 1918.

<sup>4</sup>Figures presented to the Reparation Commission of the Interallied Peace Conference; do not include 4,385,487 men placed *hors de combat*.

<sup>5</sup>Does not include losses in Italy in 1918, estimated at 400,000.



## THE WORLD AND THE LEAGUE OF NATIONS

MEMBERS	CLEAR WHITE
TERRITORIES UNDER MANDATE	⋮⋮⋮
STATES INVITED	≡≡≡
CENTRAL POWERS	
OMITTED	≡≡≡

Note: Lesser Territories, such as islands, under  
Mandate Named and Underlined.  
Colonies indicated as under same status as  
Parent State.



## THE WORLD AND THE LEAGUE OF NATIONS

MEMBERS	CLEAR WHITE
TERRITORIES UNDER MANDATE	⋮⋮⋮
STATES INVITED	≡≡≡
CENTRAL POWERS	
OMITTED	≡≡≡

Note: Lesser Territories, such as islands, under Mandate Named and Underlined.

Colonies indicated as under same status as Parent State.

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# LEAGUE *of* NATIONS

Vol. II, No. 6

December, 1919

## **The Constitution of the German Commonwealth**

Translated by

**WILLIAM BENNETT MUNRO**

and

**ARTHUR NORMAN HOLCOMBE**

*Department of Government,  
Harvard University.*

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# CONTENTS

## INTRODUCTION:

The German Revolution . . . . .	343
Election of a Constitutional Convention . . . . .	345
The Constitutional Convention . . . . .	346
Organization of the Provisional Government . . . . .	347
Adoption of the Permanent Constitution . . . . .	348
Terminology of New Constitution . . . . .	350

GLOSSARY . . . . .	352
--------------------	-----

## **The Constitution of the German Commonwealth. Translated by William Bennett Munro and Arthur Norman Holcombe.**

### CHAPTER I. Structure and Functions of the Commonwealth

<i>Section I.</i> Commonwealth and States . . . . .	353
<i>Section II.</i> The National Assembly. . . . .	359
<i>Section III.</i> The National President and the Na- tional Cabinet . . . . .	364
<i>Section IV.</i> The National Council . . . . .	368
<i>Section V.</i> National Legislation . . . . .	370
<i>Section VI.</i> The National Administration . . . . .	373
<i>Section VII.</i> The Administration of Justice . . . . .	380

### CHAPTER II. Fundamental Rights and Duties of Germans

<i>Section I.</i> The Individual . . . . .	382
<i>Section II.</i> The Community Life . . . . .	384
<i>Section III.</i> Religion and Religious Societies . . . . .	387
<i>Section IV.</i> Education and Schools . . . . .	389
<i>Section V.</i> Economic Life . . . . .	392
Transitional and Final Provision . . . . .	397

*Constitute government how you please, infinitely the greater part of it must depend upon the exercise of powers which are left at large to the prudence and uprightness of ministers of state. Even all the use and potency of the laws depends upon them. Without them your Commonwealth is no better than a scheme upon paper; and not a living, active, effective organization.*

—EDMUND BURKE.

# THE CONSTITUTION OF THE GERMAN COMMONWEALTH

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## INTRODUCTION

The Constitution of the German Commonwealth is a document of great interest and importance for several reasons. It establishes a new frame of government for a nation of sixty million people. It sets forth the philosophy of republican government, as the present-day leaders of the German People understand it, and endeavors to make permanent the political achievements of the Revolution. Its social and economic provisions are far-reaching in scope, and if carried into full effect must eventually work a great transformation in the social and industrial relations of the German People. The new Constitution is of unusual interest, therefore, to the student of economics and sociology as well as to the student of government.

Even a rapid reading of the document will disclose the fact that it makes provision for many revolutionary changes. It provides for the direct election of the nation's chief executive. It establishes ministerial responsibility, both collective and individual. It inaugurates universal suffrage, accepts the principle of proportional representation, and makes provision for the use of the initiative, referendum and recall. It includes, somewhat after the American fashion, a bill of rights; but the constitutional protection afforded to the rights of the individual is seriously impaired by the fact that in almost every case the extent of those rights may be limited by ordinary process of legislation. These provisions, and many others which the Constitution contains, will afford useful texts for discussion wherever the science of government is studied.

This is not the place to narrate in detail the epoch-marking events which led to the supplanting of imperial by republican government in Germany. At the same time a brief summary of the happenings during the few months which immediately preceded the framing of the new Constitution may be useful as indicating the influence of the transitional period upon this document.

## THE GERMAN REVOLUTION

On November 9, 1918, the Revolution broke out in Germany. The Emperor, in fear of his life, deserted his army and fled the

country. The leader of the German Social Democrats, Frederick Ebert, took over the chancellorship and on the following day assumed also the chairmanship of the Council of People's Commissioners. The flight of the Emperor put an end to monarchy in Prussia. The hereditary rulers of other German states understood that the old order had passed away. They all speedily abdicated, or acquiesced in their deposition. The military masters of Germany appeared to be overthrown.

What was to take their place: a government of the People, or another tyranny by a class? Would the new rulers, like those of Russia after the republican Revolution of March, 1917, seek to establish a government of justice and liberty, deriving its powers from the consent of the governed? Or, like the rulers of Russia after the Bolshevist Revolution of November, 1917, did they intend to foist strange and untried changes in laws and constitutions upon the People, with or without their consent? The new rulers themselves seemed prepared for either policy. The German Social Democracy, now in the saddle after a half-century of waiting, had professed to stand both for a social and for a democratic revolution. Which kind would they make? Or, at least, which kind would they make first? As chancellor, Ebert might play the part of a new and perhaps more successful Kerensky; as chairman of the Council of People's Commissioners, that of a German Lenine.

In fact, there was a division of counsels in the ranks of the revolutionary leaders. Ebert wished first to complete the democratic revolution, and to this end desired to call a national constitutional convention and lay a secure foundation for republican law and order. Some of the most active and energetic of his associates, notably the influential Social Democratic leader, Hugo Haase, wished first to complete the social revolution; and to that end desired to postpone the consideration of further political changes until they should have used the power which they had to bring about the changes in society to which they were pledged. In the inner circles of the revolutionists the former policy prevailed. On November 30 an executive order, issued by authority of the Council of People's Commissioners, announced the date of the elections to the constitutional convention and provided for the regulations in accordance with which the elections



should be held. Presently Haase and the more radical Socialists withdrew from the provisional government, and their places were taken by Scheidemann and other more moderate leaders.

### ELECTION OF A CONSTITUTIONAL CONVENTION

The electoral regulations authorized by the executive order of November 30, form the corner-stone of the new republican Constitution. They were framed with care and are of interest on their own account. First, they established the principles of universal, direct, secret and equal suffrage, and of proportional representation. All German men and women, who would be 20 years of age or more on the day of election, were declared eligible to vote, and those who would also have been citizens for at least one year were declared eligible for election. The disabilities of soldiers were removed. Provision was made for the registration of the voters, and it was further provided that no one should vote except at the place of registration. By a subsequent amendment to the regulations, provision was made for the registration also of German-Austrians, resident within Germany, in order that they might participate in the elections. The date of the elections was originally fixed for Sunday, February 16, 1919. Subsequently, the growth of political unrest caused the provisional government to hasten its preparations, and the elections were actually held on Sunday, January 19.

The system of proportional representation prescribed by the regulations is that which may be called the straight party ticket system. A list of candidates, not exceeding the number of delegates to be elected in the district, may be nominated by 100 voters. Each candidate must file his acceptance and no name may appear on more than one list of candidates in the same district. The voter chooses between the lists and combinations of lists which are placed in nomination. In effect he votes for a straight party ticket. Each ticket receives its proportional share of the number of seats assigned to the district. The successful candidates are those whose names appear first in order on the party ticket, as originally placed in nomination, regardless of the individual preferences of the voters.

## THE CONSTITUTIONAL CONVENTION

The electoral districts were organized in accordance with the politico-geographical groupings of the people. Each district was assigned approximately one delegate for each 150,000 inhabitants. By the original regulations there were 433 delegates distributed among 38 districts. The largest number assigned to any one district was 16; the smallest number, six. By subsequent amendments there were some changes, and the number of delegates eventually elected amounted to 423. They were distributed by parties as follows:

Social Democrats (members of the International Socialist Party as it existed before the War) .....	165
The Center (or Catholic) Party .....	90
German Democratic Party (successor to the former Progressive and Radical Parties) .....	75
German National People's Party (successor to the former Conservative Parties) .....	42
German People's Party (successor to the National Liberals, the party of "big business" and finance) .....	22
Independent Social Democrats (Socialists with Bolshevist tendencies) .....	22
Bavarian Peasants' Union .....	4
German-Hanoverian Party .....	2
Without any party affiliation .....	1

There were 37 women among the delegates, of whom a majority were Social Democrats. A substantial number of the delegates had been members of the Reichstag. Many others were experienced in public affairs, or in the affairs of trade unions, chambers of commerce and similar bodies. Trade union officials, journalists and lawyers predominated. There were remarkably few former officers and soldiers.

The National Constitutional Convention met for the first time on February 6, 1919, at Weimar. There were good reasons for the choice of this meeting place instead of Berlin. Weimar is associated with Goethe and Schiller, with the exaltation of reason over force, with the birth of the ideas of nationality and republicanism; in short, with what is best in the moral heritage of the German people. The removal of the seat of government thither, even

temporarily, marked a break with the discredited Bismarckian tradition of blood and iron. Moreover, besides these sentimental considerations there were practical grounds for avoiding the mob of the capital.

### ORGANIZATION OF THE PROVISIONAL GOVERNMENT

The convention adopted the rules of procedure in force in the late Reichstag and chose for its president, Dr. Edward David, the most scholarly of the Social Democratic members. Careful preparations had been made for the work of the convention, and on the fourth day after it convened, it was able to adopt a law fixing the organization of the provisional government, pending the adoption of a permanent constitution for the republic. This law foreshadowed the form which the institutions of the republic ultimately would take, and, like the executive order relating to the elections, marked a definitive step in the progress of the Revolution.

The act of February 10 provided, first, that the convention should adopt a permanent constitution and also other urgent legislation. It recognized the existing provisional government as the supreme administrative agency of the republic but stipulated that the right to initiate legislative measures, a prerogative of the Chancellor and Federal Council under the imperial Constitution, should be exercised by the provisional government with the advice of a Committee of the States. This committee, which was plainly designed to take the place of the old Federal Council, should be composed of representatives of those German States whose governments possessed the confidence of representative bodies based on universal, equal, secret and direct suffrage. Each State should have at least one representative, and the larger States one for every million inhabitants. Special provision was made for the eventual representation of the new German-Austrian Republic. A member of the Administration should act as chairman of the Committee of the States, and all members of the Administration and of the committee should have the right to take part in the proceedings of the convention, and to speak at any time in order to represent the views of the Administration and Committee of the States.

The permanent constitution was to be adopted by the convention alone, except that no changes were to be made in the boundaries of the States without their consent. Laws should be enacted in agreement with the Committee of the States. In case of disagreement, the President of the Republic might submit the proposed measure to a vote of the People. The President should be the chief executive officer, and have power to commission and receive ambassadors and to make treaties with foreign countries. War should be declared and peace concluded only by law. Treaties with foreign powers relating to subjects within the jurisdiction of the central government would require the consent of the convention and the Committee of the States. If Germany should be admitted into a League of Nations designed to put an end to all secret treaties, all treaties with states belonging to the League would require the consent of the convention and the Committee of the States. The President should be elected by the convention and should hold office until the election of a president in accordance with the permanent constitution. He should appoint a Cabinet for the conduct of the government, to which all the national administrative authorities and the commander-in-chief of the army should be subordinated. The members of the Cabinet should possess the confidence of the convention in the conduct of their offices. All orders and instructions of the President relating to civil or military affairs should be countersigned by a member of the cabinet. The cabinet officers should be responsible to the convention for the performance of their duties. Thus the provisional government was transformed into a cabinet government responsible to a democratic parliament, and time was gained for the deliberate framing of a permanent republican constitution.

#### ADOPTION OF THE PERMANENT CONSTITUTION

The Constitution of the German Commonwealth was finally adopted on July 31 and became effective by executive order on August 11, 1919. Meanwhile the Scheidemann Cabinet had fallen on account of its failure to secure as acceptable a treaty of peace as the Germans had hoped for, and a new Cabinet had been organized by Gustavus Bauer.



The new Chancellor had been for a decade one of the foremost leaders of the German socialist trade unions and since the beginning of the Revolution at the head of the national Department of Labor. He selected as the members of his Cabinet six Social Democrats, all of whom had long been prominent as editors of party newspapers or trade union officials, and four members of the Center party, all journalists or lawyers, the most prominent of whom was Mathias Erzberger. The new Cabinet thus became the responsible head of the new constitutional government, the Constitutional Convention became the National Assembly, the Committee of the States gave way to the newly created National Council, and the democratic revolution, except for the election of a president by the People, was completed.

The frame of government, established by the final Constitution, resembles closely that foreshadowed by the regulations governing the election of the Constitutional Convention and the law fixing the organization of the provisional government. The details are more precisely defined in many cases; in others they are left to be provided by subsequent legislation. Many of the detailed provisions indeed are taken from the old imperial Constitution. Several articles, relating to the privileges and immunities of members of the National Assembly, are taken bodily from the old constitution. Many other provisions relating to such matters as customs boundaries, posts and telegraphs, railroads and canals, the organization of the administration, and the relations between the central and the local administrative authorities, betray a similar origin. The most important innovations are those contained in Chapter II, relating to the fundamental rights and duties of Germans. The individual, the family, the church, and the school all receive a degree of consideration in striking contrast to the unbalanced exaltation of the state so characteristic of the imperial Constitution.

The most novel changes introduced by the republican Constitution, from the American standpoint, are those in the latter part of Chapter II, relating to the socialization of business enterprise and the economic organization of the community. The advocates among the revolutionary leaders of a social as well as a political revolution were not without influence in the Constitutional Convention. The convention did not regard the immediate



establishment of the co-operative commonwealth as a part of its function, but it did not neglect to make suitable provision for the subsequent adoption of a policy of collectivism. Those who are more concerned with the social than with the political aspects of the German Revolution will doubtless find the constructive program set forth in Section 5 of Chapter II the most interesting part of the new Constitution.

### TERMINOLOGY OF NEW CONSTITUTION

A word should be added in explanation of the way in which certain technical terms have been translated.

It is no longer fitting, for example, to translate *Reich* as empire. Yet it is not clear to what extent the old spirit as well as the old forms have changed. Certainly the "strange trappings and primitive authority" of the imperial government are gone. How far has the spirit as well as the form of government of, by, and for the People taken its place? It is too soon to say. Whatever the event may be, it seems best for Americans at this time to substitute for empire the less specialized expression, commonwealth.

Another difficulty arises when *Reichs-* is used as a qualifier. Is the *Reichsrat*, for example, a federal council or a national council? This raises a fundamental question concerning the effect of the Revolution. Is the German Commonwealth a unified state or does it remain a confederation? Apparently the former federal States have not yet surrendered all their sovereign powers. The residue of sovereignty left to the States, however, is slight and unsubstantial. Recently, indeed (December, 1919), the Assembly of the principal State, Prussia, is reported to have adopted a resolution in favor of further centralization. As the Constitution stands, the Commonwealth appears to be a federation in which the rights of the States are subordinated to those of the Union to a far greater extent than in our own United States. It has seemed proper, therefore, to use the term "national" rather than "federal."

The term *Reichsregierung* might be translated National Government, or Administration, or Cabinet. We have adopted the term Cabinet because of its greater precision. Both the other expressions have a more general as well as a specialized meaning and

would ordinarily be understood by Americans to include the President as well as the Chancellor and Ministers, who alone are the members of the Cabinet in the strict sense of the term. The *Regierung* must be distinguished from the *Ministerium*. The latter term may designate either the whole body of ministers or the department of any one minister. In the text of the German Constitution it is used only in the latter sense.

The translations adopted for the principal political terms of the new Constitution are indicated in the glossary. In general the purpose has been to adhere as closely to a literal rendering of the German as was compatible with an intelligible English version. Preference has been given throughout the translation to the terminology of republican government as developed in the United States. For a correct understanding of a foreign constitution, no translation can however suffice; the original text with a commentary must be carefully studied by anyone who wishes to obtain a thorough comprehension of such a document.

The translators are glad to acknowledge their indebtedness to Professor John A. Walz and Dr. F. W. C. Lieder of the Department of German in Harvard University, and to Dean Roscoe Pound of the Harvard Law School for careful scrutiny of the proofs and many helpful suggestions on difficult passages.

W. B. M.

A. N. H.

January 5, 1920.

# GLOSSARY

German	Translation
REICH . . . . .	Commonwealth
REICHS- . . . . .	of the Commonwealth, national
REICHSARBEITERRAT. . . . .	National Workers' Council
REICHSGERICHT . . . . .	National Judicial Court
REICHSKANZLER . . . . .	National Chancellor
REICHSMINISTER . . . . .	National Minister
REICHSMINISTERIUM, pl.,-ien . . . .	National Department
REICHSPRÄSIDENT . . . . .	President of the Commonwealth, National President
REICHSRAT . . . . .	National Council
REICHSREGIERUNG . . . . .	National Cabinet
REICHSTAG . . . . .	National Assembly
REICHsverwaltungsgericht. . . . .	National Administrative Court
REICHswirtschaftsrat . . . . .	National Economic Council
LAND . . . . .	State (an integral part of the Com- monwealth)
LANDES- . . . . .	of the State, State
LANDESREGIERUNG . . . . .	State Cabinet
LANDTAG . . . . .	State Assembly
WAHLPRÜFUNGSGERICHT . . . . .	Electoral Commission
STAAT . . . . .	country, state (one of the family of nations); referring to Germany, it designates the Commonwealth and separate States as a single political entity.
STAATSGERICHTSHOF . . . . .	Supreme Judicial Court
STAATLICH . . . . .	political
FREISTAATLICH . . . . .	republican

# THE CONSTITUTION *OF THE* GERMAN COMMONWEALTH

## *PREAMBLE*

The German People, united in all their branches, and inspired by the determination to renew and strengthen their Commonwealth in liberty and justice, to preserve peace both at home and abroad, and to foster social progress, have adopted the following Constitution.

## CHAPTER I STRUCTURE AND FUNCTIONS OF THE COMMONWEALTH

### *SECTION I* COMMONWEALTH AND STATES

#### ARTICLE 1

The German Commonwealth is a republic.  
Political authority is derived from the People.

#### ARTICLE 2

The territory of the Commonwealth consists of the territories of the German States. Other territories may be incorporated into the Commonwealth by national law, if their inhabitants, exercising the right of self-determination, so desire.

#### ARTICLE 3

The national colors are black, red and gold. The merchant flag is black, white and red, with the national colors in the upper inside corner.

## ARTICLE 4

The generally recognized principles of the law of nations are accepted as an integral part of the law of the German Commonwealth.

## ARTICLE 5

Political authority is exercised in national affairs by the National Government in accordance with the Constitution of the Commonwealth, and in State affairs by the State Governments in accordance with the State constitutions.

## ARTICLE 6

The Commonwealth has exclusive jurisdiction over:

1. Foreign relations;
2. Colonial affairs;
3. Citizenship, freedom of travel and residence, immigration and emigration, and extradition;
4. Organization for national defense;
5. Coinage;
6. Customs, including the consolidation of customs and trade districts and the free interchange of goods;
7. Posts and telegraphs, including telephones.

## ARTICLE 7

The Commonwealth has jurisdiction over:

1. Civil law;
2. Criminal law;
3. Judicial procedure, including penal administration, and official co-operation between the administrative authorities;
4. Passports and the supervision of aliens;
5. Poor relief and vagrancy;
6. The press, associations and public meetings;
7. Problems of population; protection of maternity, infancy, childhood and adolescence;
8. Public health, veterinary practice, protection of plants from disease and pests;



9. The rights of labor, social insurance, the protection of wage-earners and other employees, and employment bureaus;
10. The establishment of national organizations for vocational representation;
11. Provision for war-veterans and their surviving dependents;
12. The law of expropriation;
13. The socialization of natural resources and business enterprises, as well as the production, fabrication, distribution, and price-fixing of economic goods for the use of the community;
14. Trade, weights and measures, the issue of paper money, banking, and stock and produce exchanges;
15. Commerce in foodstuffs and in other necessities of daily life, and in luxuries;
16. Industry and mining;
17. Insurance;
18. Ocean navigation, and deep-sea and coast fisheries;
19. Railroads, internal navigation, communication by power-driven vehicles on land, on sea, and in the air; the construction of highways, in so far as pertains to general intercommunication and the national defense;
20. Theaters and cinematographs.

#### ARTICLE 8

The Commonwealth also has jurisdiction over taxation and other sources of income, in so far as they may be claimed in whole or in part for its purposes. If the Commonwealth claims any source of revenue which formerly belonged to the States, it must have consideration for the financial requirements of the States.

#### ARTICLE 9

Whenever it is necessary to establish uniform rules, the Commonwealth has jurisdiction over:

1. The promotion of social welfare;
2. The protection of public order and safety.

## ARTICLE 10

The Commonwealth may prescribe by law fundamental principles concerning:

1. The rights and duties of religious associations;
2. Education, including higher education and libraries for scientific use;
3. The law of officers of all public bodies;
4. The land law, the distribution of land, settlements and homesteads, restrictions on landed property, housing, and the distribution of population;
5. Disposal of the dead.

## ARTICLE 11

The Commonwealth may prescribe by law fundamental principles concerning the validity and mode of collection of State taxes, in order to prevent:

1. Injury to the revenues or to the trade relations of the Commonwealth;
2. Double taxation;
3. The imposition of excessive burdens, or burdens in restraint of trade on the use of the means and agencies of public communication;
4. Tax discriminations against the products of other States in favor of domestic products in interstate and local commerce; or
5. Export bounties;

or in order to protect important social interests.

## ARTICLE 12

So long and in so far as the Commonwealth does not exercise its jurisdiction, such jurisdiction remains with the States. This does not apply in cases where the Commonwealth possesses exclusive jurisdiction.

The National Cabinet may object to State laws relating to the subjects of Article 7, Number 13, whenever the general welfare of the Commonwealth is affected thereby.

## ARTICLE 13

The laws of the Commonwealth are supreme over the laws of the States which conflict with them.

If doubt arises, or difference of opinion, whether State legislation is in harmony with the law of the Commonwealth, the proper authorities of the Commonwealth or the central authorities of the States, in accordance with more specific provisions of a national law, may have recourse to the decision of a supreme judicial court of the Commonwealth.

## ARTICLE 14

The laws of the Commonwealth will be executed by the State authorities, unless otherwise provided by national law.

## ARTICLE 15

The National Cabinet supervises the conduct of affairs over which the Commonwealth has jurisdiction.

In so far as the laws of the Commonwealth are to be carried into effect by the State authorities, the National Cabinet may issue general instructions. It has the power to send commissioners to the central authorities of the States, and, with their consent, to the subordinate State authorities, in order to supervise the execution of national laws.

It is the duty of the State Cabinets, at the request of the National Cabinet, to correct any defects in the execution of the national laws. In case of dispute, either the National Cabinet or that of the State may have recourse to the decision of the Supreme Judicial Court, unless another court is prescribed by national law.

## ARTICLE 16

The officers directly charged with the administration of national affairs in any State shall, as a rule, be citizens of that State. The officers, employees and workmen of the national administration shall, if they so desire, be employed in the districts where they reside as far as is possible and not inconsistent with their training and with the requirements of the service.

## ARTICLE 17

Every State must have a republican constitution. The representatives of the People must be elected by the universal, equal, direct and secret suffrage of all German citizens, both men and women, according to the principles of proportional representation. The State Cabinet shall require the confidence of the representatives of the People.

The principles in accordance with which the representatives of the People are chosen apply also to municipal elections; but by State law a residence qualification not exceeding one year of residence in the municipality may be imposed in such elections.

## ARTICLE 18

The division of the Commonwealth into States shall serve the highest economic and cultural interests of the People after most thorough consideration of the wishes of the population affected. State boundaries may be altered and new States may be created within the Commonwealth by the process of constitutional amendment.

With the consent of the States directly affected, it requires only an ordinary law of the Commonwealth.

An ordinary law of the Commonwealth will also suffice, if one of the States affected does not consent, provided that the change of boundaries or the creation of a new State is desired by the population concerned and is also required by a preponderant national interest.

The wishes of the population shall be ascertained by a referendum. The National Cabinet orders a referendum on demand of one-third of the inhabitants qualified to vote for the National Assembly in the territory to be cut off.

Three-fifths of the votes cast, but at least a majority of the qualified voters, are required for the alteration of a boundary or the creation of a new State. Even if a separation of only a part of a Prussian administrative district, a Bavarian circle, or, in other States, a corresponding administrative district, is involved, the wishes of the population of the whole district must be ascertained. If there is no physical contact between the terri-

tory to be cut off and the rest of the district, the wishes of the population of the district to be cut off may be pronounced conclusive by a special law of the Commonwealth.

After the consent of the population has been ascertained the National Cabinet shall introduce into the National Assembly a bill suitable for enactment.

If any controversy arises over the division of property in connection with such a union or separation, it will be determined upon complaint of either party by the Supreme Judicial Court of the German Commonwealth.

#### ARTICLE 19

If controversies concerning the Constitution arise within a State in which there is no court competent to dispose of them, or if controversies of a public nature arise between different States or between a State and the Commonwealth, they will be determined upon complaint of one of the parties by the Supreme Judicial Court of the German Commonwealth, unless another judicial court of the Commonwealth is competent.

The President of the Commonwealth executes judgments of the Supreme Judicial Court.

### SECTION II

#### THE NATIONAL ASSEMBLY

##### ARTICLE 20

The National Assembly is composed of the delegates of the German people.

##### ARTICLE 21

The delegates are representatives of the whole People. They are subject only to their own consciences and are not bound by any instructions.

##### ARTICLE 22

The delegates are elected by universal, equal, direct and secret suffrage by all men and women over twenty years of age, in accordance with the principles of proportional representation. The day for elections must be a Sunday or a public holiday.

The details will be regulated by the national election law.



## ARTICLE 23

The National Assembly is elected for four years. New elections must take place at the latest on the sixtieth day after its term comes to an end.

The National Assembly convenes at the latest on the thirtieth day after the election.

## ARTICLE 24

The National Assembly meets each year on the first Wednesday in November at the seat of the National Government. The President of the National Assembly must call it earlier if the President of the Commonwealth, or at least one-third of the members of the National Assembly, demand it.

The National Assembly determines the close of its session and the day of re-assembling.

## ARTICLE 25

The President of the Commonwealth may dissolve the National Assembly, but only once for the same cause.

The new election occurs at the latest on the sixtieth day after such dissolution.

## ARTICLE 26

The National Assembly chooses its President, Vice-President and its Secretaries. It regulates its own procedure.

## ARTICLE 27

During the interval between sessions, or while elections are taking place, the President and Vice-President of the preceding session conduct its affairs.

## ARTICLE 28

The President administers the regulations and policing of the National Assembly building. The management of the building is subject to his direction; he controls its receipts and expenses in accordance with the provisions of the budget, and represents the Commonwealth in all legal affairs and in litigation arising during his administration.

## ARTICLE 29

The proceedings of the National Assembly are public. At the request of fifty members the public may be excluded by a two-thirds vote.

## ARTICLE 30

True and accurate reports of the proceedings in public sittings of the National Assembly, of a State Assembly, or of their committees, are absolutely privileged.

## ARTICLE 31

An Electoral Commission to decide disputed elections will be organized in connection with the National Assembly. It will also decide whether a delegate has forfeited his seat.

The Electoral Commission consists of members of the National Assembly, chosen by the latter for the life of the Assembly, and of members of the National Administrative Court, to be appointed by the President of the Commonwealth on the nomination of the presidency of this court.

This Electoral Commission pronounces judgment after public hearings through a quorum of three members of the National Assembly and two judicial members.

Proceedings apart from the hearings before the Electoral Commission will be conducted by a National Commissioner appointed by the President of the Commonwealth. In other respects the procedure will be regulated by the Electoral Commission.

## ARTICLE 32

The National Assembly acts by majority vote unless otherwise provided in the Constitution. For the conduct of elections by the National Assembly it may, in its rules of procedure, make exceptions.

The quorum to do business will be regulated by the rules of procedure.

## ARTICLE 33

The National Assembly and its committees may require the presence of the National Chancellor and of any National Minister.

The National Chancellor, the National Ministers, and Commissioners designated by them, have the right to be present at the sittings of the National Assembly and of its committees. The States are entitled to send their plenipotentiaries to these sittings to submit the views of their Cabinets on matters under consideration.

At their request the representatives of the Cabinets shall be heard during the deliberations, and the representatives of the National Cabinet shall be heard even outside the regular order of business.

They are subject to the authority of the presiding officer in matters of order.

#### ARTICLE 34

The National Assembly has the right, and, on proposal of one-fifth of its members, the duty to appoint committees of investigation. These committees, in public sittings, inquire into the evidence which they, or the proponents, consider necessary. The public may be excluded by a two-thirds vote of the committee of investigation. The rules of procedure regulate the proceedings of the committee and determine the number of its members.

The judicial and administrative authorities are required to comply with requests by these committees for information, and the record of the authorities shall on request be submitted to them.

The provisions of the code of criminal procedure apply as far as is suitable to the inquiries of these committees and of the authorities assisting them, but the secrecy of letter and other post, telegraph, and telephone services will remain inviolate.

#### ARTICLE 35

The National Assembly appoints a Standing Committee on foreign affairs which may also act outside of the sittings of the National Assembly and after its expiration or dissolution until a new National Assembly convenes. Its sittings are not public, unless the committee by a two-thirds vote otherwise provides.

The National Assembly also appoints a Standing Committee for the protection of the rights of the representatives of the People against the National Cabinet during a recess and after the expiration of the term for which it was elected.

These committees have the rights of committees of investigation.

#### ARTICLE 36

No member of the National Assembly or of a State Assembly shall at any time whatsoever be subject to any judicial or disciplinary prosecution or be held responsible outside of the House to which he belongs on account of his vote or his opinions uttered in the performance of his duty.

#### ARTICLE 37

No member of the National Assembly or of a State Assembly shall during the session, without the consent of the House to which he belongs, be subject to investigation or arrest on account of any punishable offense, unless he is caught in the act, or apprehended not later than the following day.

Similar consent is required in the case of any other restraint of personal liberty which interferes with the performance by a delegate of his duties.

Any criminal proceeding against a member of the National Assembly or of a State Assembly, and any arrest or other restraint of his personal liberty shall, at the demand of the House to which he belongs, be suspended for the duration of the session.

#### ARTICLE 38

The members of the National Assembly and the State Assemblies are entitled to refuse to give evidence concerning persons who have given them information in their official capacity, or to whom they have given information in the performance of their official duties, or concerning the information itself. In regard also to the seizure of papers their position is the same as that of persons who have by law the right to refuse to give evidence.

A search or seizure may be proceeded with in the precincts of the National Assembly or of a State Assembly only with the consent of its President.

#### ARTICLE 39

Civil officers and members of the armed forces need no leave to perform their duties as members of the National Assembly or of a State Assembly.

If they become candidates for election to these bodies, the necessary leave shall be granted them to prepare for their election.

#### ARTICLE 40

The members of the National Assembly shall have the right of free transportation over all German railroads, and also compensation as fixed by national law.

### *SECTION III*

## THE NATIONAL PRESIDENT AND THE NATIONAL CABINET

#### ARTICLE 41

The National President is chosen by the whole German People. Every German who has completed his thirty-fifth year is eligible for election.

The details will be regulated by a national law.

#### ARTICLE 42

The National President, on assuming his office, takes before the National Assembly the following oath:

I swear to devote all my energy to the welfare of the German People, to increase their prosperity, to protect them from injury, to preserve the Constitution and the laws of the Commonwealth, to perform my duties conscientiously, and to deal justly with all.

The addition of a religious affirmation is permitted.

#### ARTICLE 43

The term of the National President is seven years. He is eligible for re-election.

The President may be removed before the end of his term by vote of the People on proposal of the National Assembly. The act of the National Assembly in such case requires a two-thirds majority vote. Upon such action the President is suspended from



further exercise of his office. A refusal by the People to remove the President has the effect of a new election and entails the dissolution of the National Assembly.

The National President shall not be subject to criminal prosecution without the consent of the National Assembly.

#### ARTICLE 44

The National President may not at the same time be a member of the National Assembly.

#### ARTICLE 45

The National President represents the Commonwealth in matters of international law. He concludes in the name of the Commonwealth alliances and other treaties with foreign powers. He accredits and receives ambassadors.

War is declared and peace concluded by national law.

Alliances and treaties with foreign States, relating to subjects within the jurisdiction of the Commonwealth, require the consent of the National Assembly.

#### ARTICLE 46

The President appoints and dismisses the civil and military officers of the Commonwealth if not otherwise provided by law. He may delegate this right of appointment or dismissal to other authorities.

#### ARTICLE 47

The National President has supreme command over all the armed forces of the Commonwealth.

#### ARTICLE 48

If any State does not perform the duties imposed upon it by the Constitution or by national laws, the National President may hold it to the performance thereof by force of arms.

If public safety and order in the German Commonwealth is materially disturbed or endangered, the National President may take the necessary measures to restore public safety and order, and,

if necessary, to intervene by force of arms. To this end he may temporarily suspend, in whole or in part, the fundamental rights established in Articles 114, 115, 117, 118, 123, 124 and 153.

The National President must immediately inform the National Assembly of all measures adopted by authority of Paragraphs 1 or 2 of this Article. These measures shall be revoked at the demand of the National Assembly.

If there is danger from delay, the State Cabinet may for its own territory take provisional measures as specified in Paragraph 2. These measures shall be revoked at the demand of the National President or of the National Assembly.

The details will be regulated by a national law.

#### ARTICLE 49

The National President exercises the right of pardon for the Commonwealth.

National amnesties require a national law.

#### ARTICLE 50

All orders and directions of the National President, including those concerning the armed forces, require for their validity the countersignature of the National Chancellor or of the appropriate National Minister. By the countersignature responsibility is assumed.

#### ARTICLE 51

The National President is represented temporarily in case of disability by the National Chancellor. If such disability seems likely to continue for any considerable period, he shall be represented as may be determined by a national law.

The same procedure shall be followed in case of a premature vacancy of the Presidency until the completion of the new election.

#### ARTICLE 52

The National Cabinet consists of the National Chancellor and the National Ministers.

## ARTICLE 53

The National Chancellor and, on his proposal, the National Ministers are appointed and dismissed by the National President.

## ARTICLE 54

The National Chancellor and the National Ministers require for the administration of their offices the confidence of the National Assembly. Each of them must resign if the National Assembly by formal resolution withdraws its confidence.

## ARTICLE 55

The National Chancellor presides over the National Cabinet and conducts its affairs in accordance with rules of procedure, which will be framed by the National Cabinet and approved by the National President.

## ARTICLE 56

The National Chancellor determines the general course of policy and assumes responsibility therefor to the National Assembly. In accordance with this general policy each National Minister conducts independently the particular affairs intrusted to him and is held individually responsible to the National Assembly.

## ARTICLE 57

The National Ministers shall submit to the National Cabinet for consideration and decision all drafts of bills and other matters for which this procedure is prescribed by the Constitution or by law, as well as differences of opinion over questions which concern the departments of several National Ministers.

## ARTICLE 58

The National Cabinet will make its decisions by majority vote. In case of a tie the vote of the presiding officer will be decisive.

## ARTICLE 59

The National Assembly is empowered to impeach the National President, the National Chancellor, and the National Ministers

before the Supreme Judicial Court of the German Commonwealth for any wrongful violation of the Constitution or laws of the Commonwealth. The proposal to bring an impeachment must be signed by at least one hundred members of the National Assembly and requires the approval of the majority prescribed for amendments to the Constitution. The details will be regulated by the national law relating to the Supreme Judicial Court.

## *SECTION IV*

### THE NATIONAL COUNCIL

#### ARTICLE 60

A National Council will be organized to represent the German States in national legislation and administration.

#### ARTICLE 61

In the National Council each State has at least one vote. In the case of the larger States one vote is accorded for every million inhabitants. Any excess equal at least to the population of the smallest State is reckoned as equivalent to a full million. No State shall be accredited with more than two-fifths of all votes.

[German-Austria after its union with the German Commonwealth will receive the right of participation in the National Council with the number of votes corresponding to its population. Until that time the representatives of German-Austria have a deliberate voice.]<sup>1</sup>

The number of votes is determined anew by the National Council after every general census.

<sup>1</sup>Stricken out at the demand of the Supreme Council of the Allied and Associated Powers. The Supreme Council addressed the following demand to Germany on September 2, 1919:

"The Allied and Associated Powers have examined the German Constitution of August 11, 1919. They observe that the provisions of the second paragraph of Article 61 constitute a formal violation of Article 80 of the Treaty of Peace signed at Versailles on June 28, 1919. This violation is twofold:

"1. Article 61 by stipulating for the admission of Austria to the Reichsrat assimilates that Republic to the German States composing the German Empire

## ARTICLE 62

In committees formed by the National Council from its own members no State will have more than one vote.

## ARTICLE 63

The States will be represented in the National Council by members of their Cabinets. Half of the Prussian votes, however, will be at the disposal of the Prussian provincial administrations in accordance with a State law.

—an assimilation which is incompatible with respect to the independence of Austria.

"2. By admitting and providing for the participation of Austria in the Council of the Empire Article 61 creates a political tie and a common political action between Germany and Austria in absolute opposition to the independence of the latter.

"In consequence the Allied and Associated Powers, after reminding the German Government that Article 178 of the German Constitution declares that 'the provisions of the Treaty of Versailles can not be affected by the Constitution,' invite the German Government to take the necessary measures to efface without delay this violation by declaring Article 61, Paragraph 2, to be null and void.

"Without prejudice to subsequent measures in case of refusal, and in virtue of the Treaty of Peace (and in particular Article 29), the Allied and Associated Powers inform the German Government that this violation of its engagements on an essential point will compel them, if satisfaction is not given to their just demand within 15 days from the date of the present note, immediately to order the extension of their occupation on the right bank of the Rhine."

Article 29 of the Treaty of Peace refers to Map No. 1 which shows the boundaries of Germany and provides that the text of Articles 27 and 28 will be final as to those boundaries. Article 80 reads as follows:

"Germany acknowledges and will respect strictly the independence of Austria, within the frontiers which may be fixed in a Treaty between that State and the Principal Allied and Associated Powers; she agrees that this independence shall be inalienable, except with the consent of the Council of the League of Nations."

A diplomatic act was signed at Paris on September 22, 1919, by the representatives of the Principal Allied and Associated Powers and Germany in the following terms:

"The undersigned, duly authorized and acting in the name of the German Government, recognizes and declares that all the provisions of the German Constitution of August 11, 1919, which are in contradiction of the terms of the Treaty of Peace signed at Versailles on June 28, 1919, are null.

"The German Government declares and recognizes that in consequence Paragraph 2 of Article 61 of the said Constitution is null, and that in particular the admission of Austrian representatives to the Reichstag could only take place in the event of the consent of the Council of the League of Nations to a corresponding modification of Austria's international situation.

"The present declaration shall be approved by the competent German legislative authority, within the fortnight following the entry into force of the Peace Treaty.

"Given at Versailles, September 22, 1919, in the presence of the undersigned representatives of the Principal Allied and Associated Powers."



The States have the right to send as many representatives to the National Council as they have votes.

#### ARTICLE 64

The National Cabinet must summon the National Council on demand by one-third of its members.

#### ARTICLE 65

The chairmanship of the National Council and of its committees is filled by a member of the National Cabinet. The members of the National Cabinet have the right and on request [of the National Council] the duty to take part in the proceedings of the National Council and its committees. They must at their request be heard at any time during its deliberations.

#### ARTICLE 66

The National Cabinet, as well as every member of the National Council, is entitled to make proposals in the National Council.

The National Council regulates its order of business through rules of procedure.

The plenary sittings of the National Council are public. In accordance with the rules of procedure the public may be excluded during the discussion of particular subjects.

Decisions are taken by a majority of those present.

#### ARTICLE 67

The National Council shall be kept informed by the National Departments of the conduct of national business. At deliberations on important subjects the appropriate committees of the National Council shall be summoned by the National Departments.

### *SECTION V*

## NATIONAL LEGISLATION

#### ARTICLE 68

Bills are introduced by the National Cabinet or by members of the National Assembly.

National laws are enacted by the National Assembly.

## ARTICLE 69

The introduction of bills by the National Cabinet requires the concurrence of the National Council. If an agreement between the National Cabinet and the National Council is not reached, the National Cabinet may nevertheless introduce the bill, but must state the dissent of the National Council.

If the National Council resolves upon a bill to which the National Cabinet does not assent, the latter must introduce the bill in the National Assembly together with a statement of its attitude.

## ARTICLE 70

The National President shall compile the laws which have been constitutionally enacted and within one month publish them in the National Bulletin of Laws.

## ARTICLE 71

National laws go into effect, unless otherwise specified, on the fourteenth day following the date of their publication in the National Bulletin of Laws at the national capital.

## ARTICLE 72

The promulgation of a national law may be deferred for two months, if one-third of the National Assembly so demands. Laws which the National Assembly and the National Council declare to be urgent may be promulgated by the National President regardless of this demand.

## ARTICLE 73

A law enacted by the National Assembly shall be referred to the People before its promulgation, if the National President so orders within a month.

A law whose promulgation is deferred at the demand of at least one-third of the National Assembly shall be submitted to the People, if one-twentieth of the qualified voters so petition.

A popular vote shall further be resorted to on a measure initiated by the People if one-tenth of the qualified voters so petition. A

fully elaborated bill must accompany such petition. The National Cabinet shall lay the bill together with a statement of its attitude before the National Assembly. The popular vote does not take place if the desired bill is enacted without amendment by the National Assembly.

A popular vote may be taken on the budget, tax laws, and laws relating to the classification and payment of public officers only by authority of the National President.

The procedure in connection with the popular referendum and initiative will be regulated by national law.

#### ARTICLE 74

The National Council has the right to object to laws passed by the National Assembly.

The objection must be filed with the National Cabinet within two weeks after the final vote in the National Assembly and must be supported by reasons within two more weeks at the latest.

In case of objection, the law is returned to the National Assembly for reconsideration. If an agreement between the National Assembly and the National Council is not reached, the National President may within three months refer the subject of the dispute to the People. If the President makes no use of this right, the law does not go into effect. If the National Assembly disapproves by a two-thirds majority the objection of the National Council, the President shall promulgate the law in the form enacted by the National Assembly within three months or refer it to the People.

#### ARTICLE 75

An act of the National Assembly may be annulled by a popular vote, only if a majority of those qualified take part in the vote.

#### ARTICLE 76

The Constitution may be amended by process of legislation. But acts of the National Assembly relating to the amendment of the Constitution are effective only if two-thirds of the legal membership are present, and at least two-thirds of those present give their assent. Acts of the National Council relating to the

amendment of the Constitution also require a two-thirds majority of all the votes cast. If an amendment to the Constitution is to be adopted by the People by popular initiative, the assent of a majority of the qualified voters is required.

If the National Assembly adopts an amendment to the Constitution against the objection of the National Council, the President may not promulgate this law, if the National Council within two weeks demands a popular vote.

#### ARTICLE 77

The National Cabinet issues the general administrative regulations necessary for the execution of the national laws so far as the laws do not otherwise provide. It must secure the assent of the National Council if the execution of the national laws is assigned to the State authorities.

### SECTION VI

## THE NATIONAL ADMINISTRATION

#### ARTICLE 78

The conduct of relations with foreign countries is exclusively a function of the Commonwealth.

The States, in matters subject to their jurisdiction, may conclude treaties with foreign countries; such treaties require the assent of the Commonwealth.

Agreements with foreign countries regarding changes of national boundaries will be concluded by the Commonwealth with the consent of the State concerned. Changes of boundaries may be made only by authority of a national law, except in cases where a mere adjustment of the boundaries of uninhabited districts is in question.

To assure the representation of interests arising from the special economic relations of individual States to foreign countries or from their proximity to foreign countries, the Commonwealth determines the requisite arrangements and measures in agreement with the States concerned.

## ARTICLE 79

The national defense is a function of the Commonwealth. The organization of the German People for defense will be uniformly regulated by a national law with due consideration for the peculiarities of the people of the separate States.

## ARTICLE 80

Colonial policy is exclusively a function of the Commonwealth.

## ARTICLE 81

All German merchant ships constitute a unified merchant marine.

## ARTICLE 82

Germany forms a customs and trade area surrounded by a common customs boundary.

The customs boundary is identical with the international boundary. At the seacoast the shore of the mainland and of the islands belonging to the national territory constitutes the customs boundary. Deviations may be made for the course of the customs boundary at the ocean and at other bodies of water.

Foreign territories or parts of territories may be incorporated in the customs area by international treaties or agreements.

Portions of territory may be excluded from the customs area in accordance with special requirements. In the case of free ports this exclusion may be discontinued only by an amendment to the Constitution.

Districts excluded from the customs area may be included within a foreign customs area by international treaties or agreements.

All products of nature or industry, as well as works of art, which are subjects of free commerce within the Commonwealth, may be transported in any direction across State and municipal boundaries. Exceptions are permissible by authority of national law.

## ARTICLE 83

Customs duties and taxes on articles of consumption are administered by the national authorities.



In connection with national tax administration by the national authorities, arrangements shall be provided which will enable the States to protect their special agricultural, commercial, trade and industrial interests.

#### ARTICLE 84

The Commonwealth has authority to regulate by law:

1. The organization of the State tax administrations so far as is required for the uniform and impartial execution of the national tax laws;
2. The organization and functions of the authorities charged with the supervision of the execution of the national tax laws;
3. The accounting with the States;
4. The reimbursement of the costs of administration in connection with the execution of the national tax laws.

#### ARTICLE 85

All revenues and expenditures of the Commonwealth must be estimated for each fiscal year and entered in the budget.

The budget is adopted by law before the beginning of the fiscal year.

Appropriations are ordinarily granted for one year; in special cases they may be granted for a longer period. Otherwise, provisions extending beyond the fiscal year or not relating to the national revenues and expenditures or their administration, are inadmissible in the national budget law.

The National Assembly may not increase appropriations in the budget bill or insert new items without the consent of the National Council.

The consent of the National Council may be dispensed with in accordance with the provisions of Article 74.

#### ARTICLE 86

In the following fiscal year the National Minister of Finance will submit to the National Council and to the National Assembly an account concerning the disposition of all national revenue so as to discharge the responsibility of the National Cabinet. The auditing of this account will be regulated by national law.

## ARTICLE 87

Funds may be procured by borrowing only in case of extraordinary need and in general for expenditures for productive purposes only. Such procurement of funds as well as the assumption by the Commonwealth of any financial obligation is permissible only by authority of a national law.

## ARTICLE 88

The postal and telegraph services, together with the telephone service, are exclusively functions of the Commonwealth.

The postage stamps are uniform for the whole Commonwealth.

The National Cabinet, with the consent of the National Council, issues the regulations prescribing the conditions and charges for the use of the means of communication. With the consent of the National Council it may delegate this authority to the Postmaster General.

The National Cabinet, with the consent of the National Council, establishes an advisory council to co-operate in deliberations concerning the postal, telegraph and telephone services and rates.

The Commonwealth alone concludes treaties relating to communication with foreign countries.

## ARTICLE 89

It is the duty of the Commonwealth to acquire ownership of the railroads which serve as means of general public communication, and to operate them as a single system of transportation.

The rights of the States to acquire private railroads shall be transferred to the Commonwealth on its demand.

## ARTICLE 90

With the taking over of the railroads the Commonwealth also acquires the right of expropriation and the sovereign powers of the States pertaining to railroad affairs. The Supreme Judicial Court decides controversies relating to the extent of these rights.

## ARTICLE 91

The National Cabinet, with the consent of the National Council, issues the regulations governing the construction, operation and traffic of railroads. With the consent of the National Council it may delegate this authority to the appropriate national minister.

## ARTICLE 92

The national railroads, irrespective of the incorporation of their budget and accounts in the general budget and accounts of the Commonwealth, shall be administered as an independent economic enterprise which shall defray its own expenses, including interest and the amortization of the railroad debt, and accumulate a railroad reserve fund. The amount of the amortization and of the reserve fund, as well as the purpose to which the reserve fund may be applied, shall be regulated by special law.

## ARTICLE 93

The National Cabinet with the consent of the National Council establishes advisory councils for the national railroads to cooperate in deliberations concerning railroad service and rates.

## ARTICLE 94

If the Commonwealth takes over the operation of railroads which serve as means of general public communication in any district, additional railroads to serve as means of general public communication within this district may only be built by the Commonwealth or with its consent. If new construction or the alteration of existing national railroad systems encroaches upon the sphere of authority of the State police, the national railroad administration, before its decision, shall grant a hearing to the State authorities.

Where the Commonwealth has not yet taken over the operation of the railroads, it may lay out on its own account by virtue of national law railroads deemed necessary to serve as means of general public communication or for the national defense, even against the opposition of the States, whose territory they will tra-

verse, without, however, impairing the sovereign powers of the States, or it may turn over the construction to another to execute, together with a grant of the right of expropriation if necessary.

Each railroad administration must consent to connection with other roads at the expense of the latter.

#### ARTICLE 95

Railroads serving as means of general public communication which are not operated by the Commonwealth are subject to supervision by the Commonwealth.

The railroads subject to national supervision shall be laid out and equipped in accordance with uniform standards established by the Commonwealth. They shall be maintained in safe operating condition and developed according to the requirements of traffic. Facilities and equipment for passenger and freight traffic shall be maintained and developed in keeping with the demand.

The supervision of rates is designed to secure non-discriminatory and moderate railroad charges.

#### ARTICLE 96

All railroads, including those not serving as means of general public communication, must comply with the requirements of the Commonwealth so far as concerns the use of the roads for purposes of national defense.

#### ARTICLE 97

It is the duty of the Commonwealth to acquire ownership of and to operate all waterways serving as means of general public communication.

After they have been taken over, waterways serving as means of general public communication may be constructed or extended only by the Commonwealth or with its consent.

In the administration, development, or construction of such waterways the requirements of agriculture and water-supply shall be protected in agreement with the States. Their improvement shall also be considered.

Each waterways administration shall consent to connection with other inland waterways at the expense of the latter. The

same obligation exists for the construction of a connection between inland waterways and railroads.

In taking over the waterways the Commonwealth acquires the right of expropriation, control of rates, and the police power over waterways and navigation.

The duties of the river improvement associations in relation to the development of natural waterways in the Rhine, Weser, and Elbe basins shall be assumed by the Commonwealth.

#### ARTICLE 98

Advisory national waterways councils will be formed in accordance with detailed regulations issued by the National Cabinet with the consent of the National Council to co-operate in the management of the waterways.

#### ARTICLE 99

Charges may be imposed on natural waterways only for such works, facilities, and other accommodations as are designed for the relief of traffic. In the case of state and municipal public works they may not exceed the necessary costs of construction and maintenance. The construction and maintenance costs of works designed not exclusively for the relief of traffic, but also for serving other purposes, may be defrayed only to a proportionate extent by navigation tolls. Interest and amortization charges on the invested capital are included in the costs of construction.

The provisions of the preceding paragraph apply to the charges imposed for artificial waterways and for accommodations in connection therewith and in harbors.

The total costs of a waterway, a river basin, or a system of waterways may be taken into consideration in determining navigation tolls in the field of inland water transportation.

These provisions apply also to the floating of timber on navigable waterways.

Only the Commonwealth imposes on foreign ships and their cargoes other or higher charges than on German ships and their cargoes.

For the procurement of means for the maintenance and develop-



ment of the German system of waterways the Commonwealth may by law call on the shipping interests for contributions also in other ways [than by tolls].

#### ARTICLE 100

To cover the cost of maintenance and construction of inland navigation routes any person or body of persons who in other ways than through navigation derives profit from the construction of dams may also be called upon by national law for contributions, if several States are involved or the Commonwealth bears the costs of construction.

#### ARTICLE 101

It is the duty of the Commonwealth to acquire ownership of and to operate all aids to navigation, especially lighthouses, lightships, buoys, floats and beacons. After they are taken over, aids to navigation may be installed or extended only by the Commonwealth or with its consent.

### SECTION VII

## THE ADMINISTRATION OF JUSTICE

#### ARTICLE 102

Judges are independent and subject only to the law.

#### ARTICLE 103

Ordinary jurisdiction will be exercised by the National Judicial Court and the courts of the States.

#### ARTICLE 104

Judges of ordinary jurisdiction are appointed for life. They may against their wishes be permanently or temporarily removed from office, or transferred to another position, or retired, only by virtue of a judicial decision and for the reasons and in the forms provided by law. The law may fix an age limit on reaching which judges may be retired.

Temporary suspension from office in accordance with law is not affected by this Article.

If there is a re-organization of the courts or of the judicial districts, the State department of justice may order involuntary transfers to another court or removal from office, but only with allowance of full salary.

These provisions do not apply to judges of commercial tribunals, lay associates, and jurymen.

#### ARTICLE 105 *Superseded Jan 1922*

Extraordinary courts are illegal. No one may be removed from the jurisdiction of his lawful judge. Provisions of law relating to military courts and courts-martial are not affected hereby. Military courts of honor are abolished.

#### ARTICLE 106

Military jurisdiction is abolished except in time of war and on board war-vessels. Details will be regulated by national law.

#### ARTICLE 107

There shall be administrative courts both in the Commonwealth and in the States, in accordance with the laws, to protect the individual against orders and decrees of administrative authorities.

#### ARTICLE 108

In accordance with a national law a Supreme Judicial Court will be established for the German Commonwealth.

CHAPTER II

FUNDAMENTAL RIGHTS AND DUTIES  
OF GERMANS

SECTION I

THE INDIVIDUAL

ARTICLE 109

*Repealed in 1922*

All Germans are equal before the law.

Men and women have fundamentally the same civil rights and duties.

Privileges or discriminations due to birth or rank and recognized by law are abolished. Titles of nobility will be regarded merely as part of the name and may not be granted hereafter.

Titles may be conferred only when they designate an office or profession; academic degrees are not affected by this provision.

Orders and honorary insignia may not be conferred by the state.

No German may accept a title or order from a foreign Government.

ARTICLE 110

Citizenship in the Commonwealth and in the States will be acquired and lost in accordance with the provisions of a national law. Every citizen of a State is at the same time a citizen of the Commonwealth.

Every German has the same rights and duties in each State of the Commonwealth as the citizens of that State.

ARTICLE 111

All Germans enjoy the right to travel and reside freely throughout the whole Commonwealth. Everyone has the right of sojourn and settlement in any place within the Commonwealth, the right to acquire land and to pursue any gainful occupation. No limitations may be imposed except by authority of a national law.

## ARTICLE 112

Every German has the right to emigrate to foreign countries. Emigration may be limited only by national law.

All German citizens, both within and without the territory of the Commonwealth, have a right to its protection with respect to foreign countries.

No German may be surrendered to a foreign Government for prosecution or punishment.

## ARTICLE 113

Those elements of the People which speak a foreign language may not be interfered with by legislative or administrative action in their free and characteristic development, especially in the use of their mother tongue in the schools or in matters of internal administration and the administration of justice.

## ARTICLE 114

Personal liberty is inviolable. An interference with or abridgement of personal liberty through official action is permissible only by authority of law.

Persons, who are deprived of their liberty, shall be informed at latest on the following day by what authority and on what grounds they have been deprived of liberty, and they shall without delay receive an opportunity to present objections against such loss of liberty.

## ARTICLE 115

The house of every German is his sanctuary and is inviolable. Exceptions are permissible only by authority of law.

## ARTICLE 116

An act can be punishable only if the penalty was fixed by law before the act was committed.

## ARTICLE 117

The secrecy of postal, telegraphic, and telephonic communications is inviolable. Exceptions may be permitted only by national law.

## ARTICLE 118

Every German has a right within the limits of the general laws to express his opinion freely by word, in writing, in print, by picture, or in any other way. No relationship arising out of his employment may hinder him in the exercise of this right, and no one may discriminate against him if he makes use of this right.

There is no censorship, although exceptional provisions may be made by law in the case of moving pictures. Legal measures are also permissible for combatting obscene and indecent literature as well as for the protection of youth at public plays and spectacles.

*SECTION II*

## COMMUNITY LIFE

## ARTICLE 119

Marriage, as the foundation of family life and of the maintenance and increase of the nation, is under the special protection of the Constitution. It is based on the equal rights of both sexes.

The maintenance of the purity, the health, and the social advancement of the family is the task of the state and of the municipalities. Families with numerous children have a claim to equalizing assistance.

Motherhood has a claim to the protection and care of the State.

## ARTICLE 120

The physical, mental, and moral education of their offspring is the highest duty and the natural right of parents, whose activities are supervised by the political community.

## ARTICLE 121

Illegitimate children shall be provided by law with the same opportunities for their physical, mental, and moral development as legitimate children.



## ARTICLE 122

Youth shall be protected against exploitation as well as against neglect of their moral, mental, or physical welfare. The necessary arrangements shall be made by state and municipality.

Compulsory protective measures may be ordered only by authority of the law.

ARTICLE 123 *Repealed 1933*

All Germans have the right of meeting peaceably and unarmed without notice or special permission.

Previous notice may be required by national law for meetings in the open, and such meetings may be forbidden in case of immediate danger to the public safety.

ARTICLE 124 *Repealed*

All Germans have the right to form associations or societies for purposes not contrary to the criminal law. This right can not be limited by preventive measures. The same provisions apply to religious associations and societies.

Every association has the right of incorporation in accordance with the civil law. No association may be denied this right on the ground that it pursues a political, social-political, or religious object.

## ARTICLE 125

The liberty and secrecy of the suffrage are guaranteed. Details will be regulated by the election laws.

## ARTICLE 126

Every German has the right to petition or to complain in writing to the appropriate authorities or to the representatives of the People. This right may be exercised by individuals as well as by several persons together.

## ARTICLE 127

Municipalities and unions of municipalities have the right of self-government within the limits of the laws.

## ARTICLE 128

All citizens without distinction are eligible for public office in accordance with the laws and according to their ability and services.

All discriminations against women in the civil service are abolished.

The principles of the official relation shall be regulated by national law.

## ARTICLE 129

Civil officers are appointed for life, in so far as is not otherwise provided by law. Pensions and provisions for surviving dependents will be regulated by law. The duly acquired rights of the civil officers are inviolable. Claims of civil officers based upon property rights may be established by process of law.

Civil officers may be suspended, temporarily or permanently retired, or transferred to other positions at a smaller salary only under the legally prescribed conditions and forms.

A process of appeal against disciplinary sentence and opportunity for reconsideration shall be established. Reports of an unfavorable character concerning a civil officer shall not be entered in his official record, until he has had the opportunity to express himself. Civil officers shall also be permitted to inspect their official records.

The inviolability of the duly acquired rights and the benefit of legal processes for the establishment of claims based on property rights are also assured especially to regular soldiers. In other respects their position is regulated by national law.

## ARTICLE 130

The civil officers are servants of the whole community, not of a part of it.

To all civil officers freedom of political opinion and of association are assured.

The civil officers receive special representation in their official capacity in accordance with more precise provisions of national law.

## ARTICLE 131

If a civil officer in the exercise of the authority conferred upon him by law fails to perform his official duty toward any third person, the responsibility is assumed by the state or public corporation in whose service the officer is. The right of redress [by the state or public corporation] against the officer is reserved. The ordinary process of law may not be excluded.

Detailed regulations will be made by the appropriate law-making authority.

## ARTICLE 132

Every German, in accordance with the laws, has the duty of accepting honorary offices.

## ARTICLE 133

All citizens are obliged, in accordance with the laws, to render personal services to the state and the municipality.

The duty of military service will be defined in accordance with the provisions of the national defense law. This will determine also how far particular fundamental rights shall be restricted in their application to the members of the armed forces in order that the latter may fulfill their duties and discipline may be maintained.

## ARTICLE 134

All citizens, without distinction, contribute according to their means to the support of all public burdens, as may be provided by law.

*SECTION III*

## RELIGION AND RELIGIOUS SOCIETIES

## ARTICLE 135

All inhabitants of the Commonwealth enjoy complete liberty of belief and conscience. The free exercise of religion is assured by the Constitution and is under public protection. This Article leaves the general laws undisturbed.

## ARTICLE 136

Civil and political rights and duties are neither conditioned upon nor limited by the exercise of religious liberty.

The enjoyment of civil and political rights as well as eligibility to public office is independent of religious belief.

No one is under any obligation to reveal his religious convictions.

The authorities have a right to inquire about religious affiliation only so far as rights and duties are dependent thereon or in pursuance of a statistical enumeration prescribed by law.

No one may be forced to attend any church ceremony or festivity, to take part in any religious exercise, or to make use of any religious oath.

## ARTICLE 137

There is no state church.

Freedom of association in religious societies is guaranteed. The combination of religious societies within the Commonwealth is not subject to any limitations.

Every religious society regulates and administers its affairs independently within the limits of the general law. It appoints its officers without interference by the state or the civil municipality.

Religious societies may be incorporated in accordance with the general provisions of the civil law.

Existing religious societies remain, to the same extent as heretofore, public bodies corporate. The same rights shall be accorded to other religious societies if by their constitution and the number of their members they offer a guaranty of permanence. If a number of such public religious societies unite, this union is also a public body corporate.

The religious societies, which are recognized by law as bodies corporate, are entitled on the basis of the civil tax rolls to raise taxes according to the provisions of the laws of the respective States.

The associations, which have as their aim the cultivation of a system of ethics, have the same privileges as the religious societies.

The issuance of further regulations necessary for carrying out these provisions comes under the jurisdiction of the States.

## ARTICLE 138

State contributions to religious societies authorized by law, contract, or any special grant, will be commuted by State legislation. The general principles of such legislation will be defined by the Commonwealth.

The property of religious societies and unions and other rights to their cultural, educational, and charitable institutions, foundations, and other possessions are guaranteed.

## ARTICLE 139

Sundays and legal holidays remain under the protection of law as days of rest and spiritual edification.

## ARTICLE 140

The members of the armed forces shall be granted the necessary leave for the performance of their religious duties.

## ARTICLE 141

In so far as there is need for religious services and spiritual care in hospitals, prisons or other public institutions, the religious societies shall be permitted to perform the religious offices, but all compulsion shall be avoided.

*SECTION IV*

## EDUCATION AND SCHOOLS

## ARTICLE 142

Art, science and the teaching thereof are free. The state guarantees their protection and takes part in fostering them.

## ARTICLE 143

The education of the young shall be provided for through public institutions. In their establishment the Commonwealth, States and municipalities co-operate.



The training of teachers shall be regulated in a uniform manner for the Commonwealth according to the generally recognized principles of higher education.

The teachers in the public schools have the rights and duties of state officers.

#### ARTICLE 144

The entire school system is under the supervision of the state; it may grant a share therein to the municipalities. The supervision of schools will be exercised by technically trained officers who must devote their time principally to this duty.

#### ARTICLE 145

Attendance at school is obligatory. This obligation is discharged by attendance at the elementary schools for at least eight school years and at the continuation schools until the completion of the eighteenth year. Instruction and school supplies in the elementary and continuation schools are free.

#### ARTICLE 146

The public school system shall be systematically organized. Upon a foundation of common elementary schools the system of secondary and higher education is erected. The development of secondary and higher education shall be determined in accordance with the needs of all kinds of occupations, and the acceptance of a child in a particular school shall depend upon his qualifications and inclinations, not upon the economic and social position or the religion of his parents.

Nevertheless, within the municipalities, upon the petition of those entitled to instruction common schools shall be established of their faith or ethical system, in so far as this does not interfere with a system of school administration within the meaning of Paragraph 1. The wishes of those entitled to instruction shall be considered as much as possible. Details will be regulated by State laws in accordance with principles to be prescribed by a national law.

To facilitate the attendance of those in poor circumstances at the secondary and higher schools, public assistance shall be pro-

vided by the Commonwealth, States, and municipalities, particularly, assistance to the parents of children regarded as qualified for training in the secondary and higher schools, until the completion of the training.

#### ARTICLE 147

Private schools, as a substitute for the public schools, require the approval of the state and are subject to the laws of the States. Approval shall be granted if the private schools do not fall below the public schools in their educational aims and equipment as well as in the scientific training of their teachers, and if no separation of the pupils according to the wealth of their parents is fostered. Approval shall be withheld if the economic and legal status of the teachers is not sufficiently assured.

Private elementary schools shall be only permissible, if for a minority of those entitled to instruction whose wishes are to be considered according to Article 146, Paragraph 2, there is no public elementary school of their faith or ethical system in the municipality, or if the educational administration recognizes a special pedagogical interest.

Private preparatory schools shall be abolished.

The existing law remains in effect with respect to private schools which do not serve as substitutes for public schools.

#### ARTICLE 148

All schools shall inculcate moral education, civic sentiment, and personal and vocational efficiency in the spirit of German national culture and of international conciliation.

In the instruction in public schools care shall be taken not to hurt the feelings of those of differing opinion.

Civics and manual training are included in the school curriculum. Every pupil receives a copy of the Constitution on completing the obligatory course of study.

The common school system, including university extension work, shall be cherished by the Commonwealth, States and municipalities.

#### ARTICLE 149

Religious instruction is included in the regular school curriculum, except in the nonsectarian (secular) schools. The imparting

of religious instruction is regulated by the school laws. Religious instruction is imparted in accordance with the principles of the religious society concerned, without prejudice to the right of supervision of the state.

The imparting of religious instruction and the use of ecclesiastical ceremonies is optional with the teachers, and the participation of the pupils in religious studies and in ecclesiastical ceremonies and festivities is left to the decision of those who have the right to control the religious education of the child.

The theological faculties in the universities will be continued.

#### ARTICLE 150

The artistic, historical and natural monuments and scenery enjoy the protection and care of the state.

The prevention of the removal of German art treasures from the country is a function of the Commonwealth.

### *SECTION V*

## ECONOMIC LIFE

#### ARTICLE 151

The regulation of economic life must conform to the principles of justice, with the object of assuring humane conditions of life for all. Within these limits the economic liberty of the individual shall be protected.

Legal compulsion is permissible only for safeguarding threatened rights or in the service of predominant requirements of the common welfare.

The freedom of trade and industry is guaranteed in accordance with the national laws.

#### ARTICLE 152

Freedom of contract prevails in economic relations in accordance with the laws.

Usury is forbidden. Legal practices which conflict with good morals are void.

ARTICLE 153 *Repealed 1912*

The right of private property is guaranteed by the Constitution. Its nature and limits are defined by law.

Expropriation may be proceeded with only for the benefit of the community and by due process of law. There shall be just compensation in so far as is not otherwise provided by national law. If there is a dispute over the amount of the compensation, there shall be a right of appeal to the ordinary courts, in so far as not otherwise provided by national law. The property of the States, municipalities, and associations of public utility may be taken by the Commonwealth only upon payment of compensation.

Property-rights imply property-duties. Exercise thereof shall at the same time serve the general welfare.

## ARTICLE 154

The right of inheritance is guaranteed in accordance with the civil law.

The share of the state in inheritances is determined in accordance with the laws.

## ARTICLE 155

The distribution and use of the land is supervised by the state in such a way as to prevent its misuse and to promote the object of insuring to every German a healthful dwelling and to all German families, especially those with numerous children, homesteads corresponding to their needs. War-veterans shall receive special consideration in the enactment of a homestead law.

Landed property, the acquisition of which is necessary to satisfy the demand for housing, to promote settlement and reclamation, or to improve agriculture, may be expropriated. Entailments shall be dissolved.

The cultivation and utilization of the soil is a duty of the land-owner toward the community. An increase of the value of land arising without the application of labor or capital to the property shall inure to the benefit of the community as a whole.

All mineral resources and all economically useful forces of nature are subject to the control of the state. Private royalties shall be transferred to the state, as may be provided by law.

#### ARTICLE 156

The Commonwealth may by law, without impairment of the right to compensation, and with a proper application of the regulations relating to expropriation, transfer to public ownership private business enterprises adapted for socialization. The Commonwealth itself, the States, or the municipalities may take part in the management of business enterprises and associations, or secure a dominating influence therein in any other way.

Furthermore, in case of urgent necessity the Commonwealth, if it is in the interest of collectivism, may combine by law business enterprises and associations on the basis of administrative autonomy, in order to insure the co-operation of all producing elements of the people, to give to employers and employees a share in the management, and to regulate the production, preparation, distribution, utilization and pecuniary valuation, as well as the import and export, of economic goods upon collectivistic principles.

The co-operative societies of producers and of consumers and associations thereof shall be incorporated, at their request and after consideration of their form of organization and peculiarities, into the system of collectivism.

#### ARTICLE 157

Labor is under the special protection of the Commonwealth.

The Commonwealth will adopt a uniform labor law.

#### ARTICLE 158

Intellectual labor, the rights of the author, the inventor and the artist enjoy the protection and care of the Commonwealth.

The products of German scholarship, art, and technical science shall also be recognized and protected abroad through international agreement.

#### ARTICLE 159

The right of combination for the protection and promotion of labor and economic conditions is guaranteed to everybody and to



all professions. All agreements and measures which attempt to limit or restrain this liberty are unlawful.

#### ARTICLE 160

Any one employed on a salary or as a wage earner has the right to the leave necessary for the exercise of his civil rights and, so far as the business is not substantially injured thereby, for performing the duties of public honorary offices conferred upon him. To what extent his right to compensation shall continue will be determined by law.

#### ARTICLE 161

For the purpose of conserving health and the ability to work, of protecting motherhood, and of guarding against the economic effects of age, invalidity and the vicissitudes of life, the Commonwealth will adopt a comprehensive system of insurance, in the management of which the insured shall predominate.

#### ARTICLE 162

The Commonwealth commits itself to an international regulation of the legal status of the workers, which shall strive for a standard minimum of social rights for the whole working class of the world.

#### ARTICLE 163

Every German has, without prejudice to his personal liberty, the moral duty so to use his intellectual and physical powers as is demanded by the welfare of the community.

Every German shall have the opportunity to earn his living by economic labor. So long as suitable employment can not be procured for him, his maintenance will be provided for. Details will be regulated by special national laws.

#### ARTICLE 164

The independent agricultural, industrial, and commercial middle class shall be fostered by legislation and administration, and shall be protected against oppression and exploitation.

## ARTICLE 165

Wage-earners and salaried employees are qualified to co-operate on equal terms with the employers in the regulation of wages and working conditions, as well as in the entire economic development of the productive forces. The organizations on both sides and the agreements between them will be recognized.

The wage-earners and salaried employees are entitled to be represented in local workers' councils, organized for each establishment in the locality, as well as in district workers' councils, organized for each economic area, and in a National Workers' Council, for the purpose of looking after their social and economic interests.

The district workers' councils and the National Workers' Council meet together with the representatives of the employers and with other interested classes of people in district economic councils and in a National Economic Council for the purpose of performing joint economic tasks and co-operating in the execution of the laws of socialization. The district economic councils and the National Economic Council shall be so constituted that all substantial vocational groups are represented therein according to their economic and social importance.

Drafts of laws of fundamental importance relating to social and economic policy before introduction [into the National Assembly] shall be submitted by the National Cabinet to the National Economic Council for consideration. The National Economic Council has the right itself to propose such measures for enactment into law. If the National Cabinet does not approve them, it shall, nevertheless, introduce them into the National Assembly together with a statement of its own position. The National Economic Council may have its bill presented by one of its own members before the National Assembly.

Supervisory and administrative functions may be delegated to the workers' councils and to the economic councils within their respective areas.

The regulation of the organization and duties of the workers' councils and of the economic councils, as well as their relation to other social bodies endowed with administrative autonomy, is exclusively a function of the Commonwealth.

## TRANSITIONAL AND FINAL PROVISIONS

## ARTICLE 166

Until the establishment of the National Administrative Court, the National Judicial Court takes its place in the organization of the Electoral Commission.

## ARTICLE 167

The provisions of Article 18, Paragraphs 3 to 6, become effective two years after the promulgation of the national Constitution.

## ARTICLE 168

Until the adoption of the State law as provided in Article 63, but at the most for only one year, all the Prussian votes in the National Council may be cast by members of the State Cabinet.

## ARTICLE 169

The National Cabinet will determine when the provisions of Article 83, Paragraph 1, shall become effective.

Temporarily, for a reasonable period, the collection and administration of customs-duties and taxes on articles of consumption may be left to the States at their discretion.

## ARTICLE 170

The Postal and Telegraphic Administrations of Bavaria and Wurtemberg will be taken over by the Commonwealth not later than April 1, 1921.

If no understanding has been reached over the terms thereof by October 1, 1920, the matter will be decided by the Supreme Judicial Court.

The rights and duties of Bavaria and Wurtemberg remain in force as heretofore until possession is transferred to the Commonwealth. Nevertheless, the postal and telegraphic relations with neighboring foreign countries will be regulated exclusively by the Commonwealth.

## ARTICLE 171

The state railroads, canals and aids to navigation will be taken over by the Commonwealth not later than April 1, 1921.

If no understanding has been reached over the terms thereof by October 1, 1920, the matter will be decided by the Supreme Judicial Court.

## ARTICLE 172

Until the national law regarding the Supreme Judicial Court becomes effective its powers will be exercised by a Senate of seven members, four of whom are to be elected by the National Assembly and three by the National Judicial Court, each choosing among its own members. The Senate will regulate its own procedure.

## ARTICLE 173

Until the adoption of a national law according to Article 138, the existing state contributions to the religious societies, whether authorized by law, contract or special grant, will be continued.

## ARTICLE 174

Until the adoption of the national law provided for in Article 146, Paragraph 2, the existing legal situation will continue. The law shall give special consideration to parts of the Commonwealth where provision for separate schools of different religious faiths is not now made by law.

## ARTICLE 175

The provisions of Article 109 do not apply to orders and decorations conferred for services in the war-years 1914-1919.

## ARTICLE 176

All public officers and members of the armed forces shall be sworn upon this Constitution. Details will be regulated by order of the National President.

## ARTICLE 177

Wherever by existing laws it is provided that the oath be taken in the form of a religious ceremony, the oath may be lawfully

taken in the form of a simple affirmation by the person to be sworn: "I swear." Otherwise the content of the oath provided for in the laws remains unaltered.

#### ARTICLE 178

The Constitution of the German Empire of April 16, 1871, and the law of February 10, 1919, relating to the provisional government of the Commonwealth, are repealed.

The other laws and regulations of the Empire remain in force, in so far as they do not conflict with this Constitution. The provisions of the Treaty of Peace signed on June 28, 1919, at Versailles, are not affected by the Constitution.

Official regulations, legally issued on the authority of laws heretofore in effect, retain their validity until superseded by other regulations or legislation.

#### ARTICLE 179

In so far as reference is made in laws or executive orders to provisions and institutions which are abolished by this Constitution, their places are taken by the corresponding provisions and institutions of this Constitution. In particular, the National Assembly takes the place of the National Convention, the National Council that of the Committee of the States, and the National President elected by authority of this Constitution that of the National President elected by authority of the law relating to the provisional government.

The power to issue executive orders, conferred upon the Committee of the States in accordance with the provisions heretofore in effect, is transferred to the National Cabinet; in order to issue executive orders it requires the consent of the National Council in accordance with the provisions of this Constitution.

#### ARTICLE 180

Until the convening of the first National Assembly, the National Convention will function as the National Assembly. Until the inauguration of the first National President the office will be filled by the National President elected by authority of the law relating to the provisional government.



## ARTICLE 181

The German People have ordained and established this Constitution by their National Convention. It goes into effect upon the day of its promulgation.

SCHWARZBURG, August 11, 1919

*(Signed)*

The National President

EBERT

The National Cabinet

BAUER

ERZBERGER	HERMANN MÜLLER	DR. DAVID	
NOSKE	SCHMIDT	SCHLICKE	GIESBERTS
DR. MAYER		DR. BELL	

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CONSTITUTION  
OF THE  
LEAGUE *of* NATIONS

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# CONSTITUTION OF THE LEAGUE OF NATIONS

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## Organization of the Committee

At the second plenary session of the Preliminary Peace Conference in the French Foreign Office, Quai d'Orsay, Paris, January 25, 1919, the following resolution was adopted unanimously:

"The conference, having considered the proposals for the creation of a League of Nations, resolves that:

"1. It is essential to the maintenance of the world settlement which the associated nations are now met to establish, that a League of Nations be created to promote international co-operation, to insure the fulfilment of accepted international obligations and to provide safeguards against war.

"2. This League should be treated as an integral part of the general treaty of peace and should be open to every civilized nation which can be relied on to promote its objects.

"3. The members of the League should periodically meet in international conference, and should have a permanent organization and secretariat to carry on the business of the League in the intervals between the conferences.

"The conference, therefore, appoints a committee representative of the associated Governments to work out the details of the constitution and functions of the League."

The delegates constituting the original commission were the following:

*United States*—Woodrow Wilson and Edward M. House.

*British Empire*—Lord Robert Cecil and General Jan Christian Smuts.

*France*—Léon Bourgeois and Ferdinand Larnaude, dean of the faculty of law of the University of Paris.

*Italy*—Premier Orlando and Vittorio Scialoja.

*Japan*—Baron Makino and Viscount Chinda.

*Belgium*—Paul Hymans.

*Brazil*—Epitacio Pessoa.

*China*—Vikuyin Wellington Koo.

*Portugal*—Jaime Batalha Reis.

*Serbia*—Milenko R. Vesnich.

In the plenary session of the Preliminary Peace Conference held January 25, 1919, it was announced by the President that "we [the five great Powers] have decided to appoint two delegates each, and then we have decided to ask you [the Powers with special interests] to appoint five delegates in common."

The representatives of Powers with special interests met on January 27, to select the Powers to represent them on the commission. Belgium, China, Brazil, Serbia and Portugal were elected in that order. The proceedings continue: "In accordance with the decision of the assembly, the president will communicate to the bureau of the conference the names of the four nations which, after the five nations appointed, have obtained the greatest number of votes, namely: Rumania, Poland, Greece and the Czecho-Slovak Republic."

The four states last-named were represented in the Commission from February 6 on as follows:

*Rumania*—Mr. Diamandy.

*Poland*—Roman Dmowski.

*Greece*—Eleftherios Venizelos.

*Czecho-Slovak Republic*—Karel Kramarz.

# CONSTITUTION OF THE LEAGUE OF NATIONS

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*Report read at the plenary session of the Interallied Peace Conference, Paris, February 14, 1919, by*

WOODROW WILSON,

*President of its Commission on the League of Nations, delegate of the United States.*

MR. WILSON—Mr. Chairman: I have the honor—and assume it a very great privilege—of reporting in the name of the commission constituted by this conference on the formulation of a plan for the League of Nations. I am happy to say that it is a unanimous report, a unanimous report from the representatives of 14 nations—the United States, Great Britain, France, Italy, Japan, Belgium, Brazil, China, Czecho-Slovakia, Greece, Poland, Portugal, Rumania and Serbia. I think it will be serviceable and interesting if I may, with your permission, read the document as the only report we have to make.

## PREAMBLE

In order to promote international co-operation and to secure international peace and security by the acceptance of obligations not to resort to war, by the prescription of open, just and honorable relations between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among Governments, and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of



organized peoples with one another, the powers signatory to this covenant adopt this

## Constitution of the League of Nations:<sup>r</sup>

### I.

#### EXECUTIVE ORGANS

The action of the high contracting parties under the terms of this covenant shall be effected through the instrumentality of meetings of a Body of Delegates representing the high contracting parties, of meetings at more frequent intervals of an Executive Council, and of a Permanent International Secretariat to be established at the seat of the League.

### II.

#### BODY OF DELEGATES

Meetings of the Body of Delegates shall be held at stated intervals, and from time to time as occasion may require, for the purpose of dealing with matters within the sphere of action of the League. Meetings of the Body of Delegates shall be held at the seat of the League or at such other place as may be found convenient, and shall consist of representatives of the high contracting parties. Each of the high contracting parties shall have one vote, but may have not more than three representatives.

### III.

#### EXECUTIVE COUNCIL

The Executive Council shall consist of representatives of the United States of America, the British Empire, France, Italy and Japan, together with representatives of four other states, members of the League. The selection of these four states shall be made by the Body of Delegates on such principles and in such manner as they think fit. Pending the appointment of these represent-

<sup>r</sup>These words were omitted from the revision of April 28, 1919.

atives of the other states, representatives of (blank left for names) shall be members of the Executive Council.

Meetings of the Council shall be held from time to time as occasion may require and at least once a year at whatever place may be decided on, or, failing any such decision, at the seat of the League, and any matter within the sphere of action of the League or affecting the peace of the world may be dealt with at such meetings.

Invitations shall be sent to any power to attend a meeting of the Council at which matters directly affecting its interests are to be discussed, and no decision taken at any meeting will be binding on such power unless so invited.

#### IV.

##### MAJORITY VOTE

All matters of procedure at meetings of the Body of Delegates or the Executive Council, including the appointment of committees to investigate particular matters, shall be regulated by the Body of Delegates or the Executive Council and may be decided by a majority of the states represented at the meeting.

The first meeting of the Body of Delegates and of the Executive Council shall be summoned by the President of the United States of America.

#### V.

##### PERMANENT SECRETARIAT

The Permanent Secretariat of the League shall be established at (blank), which shall constitute the seat of the League. The Secretariat shall comprise such secretaries and staff as may be required, under the general direction and control of a Secretary General of the League, who shall be chosen by the Executive Council; the Secretariat shall be appointed by the Secretary General, subject to confirmation by the Executive Council.

The Secretary General shall act in that capacity at all meetings of the Body of Delegates, or of the Executive Council.

The expenses of the Secretariat shall be borne by the states members of the League in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union.

## VI.

### DIPLOMATIC IMMUNITIES

Representatives of the high contracting parties and officials of the League when engaged on the business of the League shall enjoy diplomatic privileges and immunities, and the buildings occupied by the League or its officials or by representatives attending its meetings shall enjoy the benefits of extra-territoriality.

## VII.

### MEMBERSHIP

Admission to the League of states not signatories to the covenant and not named in the protocol hereto as states to be invited to adhere to the covenant requires the assent of not less than two-thirds of the states represented in the Body of Delegates, and shall be limited to fully self-governing countries, including dominions and colonies.

No state shall be admitted to the League unless it is able to give effective guaranties of its sincere intention to observe its international obligations, and unless it shall conform to such principles as may be prescribed by the League in regard to its naval and military forces and armaments.

## VIII.

### REDUCTION OF ARMAMENTS

The high contracting parties recognize the principle that the maintenance of peace will require the reduction of national armaments to the lowest point consistent with national safety, and the enforcement by common action of international obligations, having special regard to the geographical situation and circumstances of

each state; and the Executive Council shall formulate plans for effecting such reduction.

The Executive Council shall also determine for the consideration and action of the several Governments what military equipment and armament is fair and reasonable in proportion to the scale of forces laid down in the program of disarmament; and these limits, when adopted, shall not be exceeded without the permission of the Executive Council.

The high contracting parties agree that the manufacture by private enterprise of munitions and implements of war lends itself to grave objections, and direct the Executive Council to advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those countries which are not able to manufacture for themselves the munitions and implements of war necessary for their safety.

The high contracting parties undertake in no way to conceal from each other the conditions of such of their industries as are capable of being adapted to warlike purposes or the scale of their armaments, and agree that there shall be full and frank interchange of information as to their military and naval programs.

## IX.

### PERMANENT MILITARY COMMISSION

A Permanent Commission shall be constituted to advise the League on the execution of the provisions of Art. VIII and on military and naval questions generally.

## X.

### GUARANTIES AGAINST AGGRESSION

The high contracting parties undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all states members of the League. In case of any such aggression or in case of any threat or danger

of such aggression, the Executive Council shall advise upon the means by which this obligation shall be fulfilled.

## XI.

### ACTION IN CASE OF WAR OR THREAT OF WAR

Any war or threat of war, whether immediately affecting any of the high contracting parties or not, is hereby declared a matter of concern to the League, and the high contracting parties reserve the right to take any action that may be deemed wise and effectual to safeguard the peace of nations.

It is hereby also declared and agreed to be the friendly right of each of the high contracting parties to draw the attention of the Body of Delegates or of the Executive Council to any circumstances affecting international intercourse which threaten to disturb international peace or the good understanding between nations upon which peace depends.

## XII.

### DISPUTES TO BE SUBMITTED TO ARBITRATION OR INQUIRY

The high contracting parties agree that, should disputes arise between them which cannot be adjusted by the ordinary processes of diplomacy, they shall in no case resort to war without previously submitting the questions and matters involved either to arbitration or to inquiry by the Executive Council and until three months after the award by the arbitrators or a recommendation by the Executive Council; and that they will not even then resort to war as against a member of the League which complies with the award of the arbitrators or the recommendation of the Executive Council.

In any case under this article, the award of the arbitrators shall be made within a reasonable time and the recommendation of the Executive Council shall be made within six months after the submission of the dispute.



## XIII.

## ACCEPTANCE OF AWARDS

The high contracting parties agree that, whenever any dispute or difficulty shall arise between them which they recognize to be suitable for submission to arbitration and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject matter to arbitration. For this purpose the court of arbitration to which the case is referred shall be the court agreed on by the parties or stipulated in any convention existing between them. The high contracting parties agree that they will carry out in full good faith any award that may be rendered. In the event of any failure to carry out the award the Executive Council shall propose what steps can best be taken to give effect thereto.

## XIV.

## INTERNATIONAL COURT

The Executive Council shall formulate plans for the establishment of a permanent court of international justice and this court shall, when established, be competent to hear and determine any matter which the parties recognize as suitable for submission to it for arbitration under the foregoing article.

## XV.

## DISPUTES NOT SUBMITTED TO ARBITRATION

If there should arise between states members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration, as above, the high contracting parties agree that they will refer the matter to the Executive Council. Either party to the dispute may give notice of the existence of the dispute to the Secretary General, who will make all necessary arrangements for a full investigation and consideration thereof. For this purpose the parties agree to communicate to the Secretary General, as promptly as possible, statements of their case with all the rele-

vant facts and papers, and the Executive Council may forthwith direct the publication thereof.

Where the efforts of the Council lead to the settlement of the dispute a statement shall be published indicating the nature of the dispute and the terms of settlement, together with such explanations as may be appropriate. If the dispute has not been settled a report by the Council shall be published, setting forth with all necessary facts and explanations the recommendation which the Council think just and proper for the settlement of the dispute.

If the report is unanimously agreed to by the members of the Council other than the parties to the dispute, the high contracting parties agree that they will not go to war with any party which complies with the recommendation, and that, if any party shall refuse so to comply, the Council shall propose the measures necessary to give effect to the recommendation. If no such unanimous report can be made, it shall be the duty of the majority and the privilege of the minority to issue statements indicating what they believe to be the facts and containing the recommendations which they consider to be just and proper.

MR. WILSON—I pause to point out that a misconception might arise in connection with one of the sentences I have just read: “if any party shall refuse so to comply, the Council shall propose measures necessary to give effect to the recommendations.” A case in point, a purely hypothetical case, is this: Suppose there is in the possession of a particular power a piece of territory or some other substantial thing in dispute, to which it is claimed that it is not entitled. Suppose that the matter is submitted to the Executive Council for recommendation as to the settlement of the dispute, diplomacy having failed, and suppose that the decision is in favor of the party which claims the subject matter of dispute, as against the party which has the subject matter in dispute. Then, if the party in possession of the subject matter in dispute merely sits still and does nothing, it has accepted the decision of the Council, in the sense that it makes no resistance; but something must be done to see that it surrenders the subject matter in dispute.

In such a case, the only case contemplated, it is provided that the Executive Council may then consider what steps will be necessary to oblige the party against whom judgment has been given to comply with the decisions of the Council.

The Executive Council may in any case under this article refer the dispute to the Body of Delegates. The dispute shall be so referred at the request of either party to the dispute, provided that such request must be made within 14 days after the submission of the dispute. In any case referred to the Body of Delegates, all the provisions of this article and of Art. XII relating to the action and powers of the Executive Council shall apply to the action and powers of the Body of Delegates.

## XVI.

### SANCTIONS

Should any of the high contracting parties break or disregard its covenants under Art. XII, it shall thereby *ipso facto* be deemed to have committed an act of war against all the other members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking state, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking state and the nationals of any other state, whether a member of the League or not.

It shall be the duty of the Executive Council in such case to recommend what effective military or naval force the members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.

The high contracting parties agree, further, that they will mutually support one another in the financial and economic measures which are taken under this article, in order to minimize the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking state, and that they will afford passage through their territory to the forces of any of the high contracting parties who are co-operating to protect the covenants of the League.

## XVII.

## DISPUTES WITH NON-MEMBERS

In the event of disputes between one state member of the League and another state which is not a member of the League, or between states not members of the League, the high contracting parties agree that the state or states not members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Executive Council may deem just; and, upon acceptance of any such invitation, the above provisions shall be applied with such modifications as may be deemed necessary by the League.

Upon such invitation being given the Executive Council shall immediately institute an inquiry into the circumstances and merits of the dispute and recommend such action as may seem best and most effectual in the circumstances.

In the event of a power so invited refusing to accept the obligations of membership in the League for the purposes of such dispute, and taking any action against a state member of the League which in the case of a state member of the League would constitute a breach of Art. XII, the provisions of Art. XVI shall be applicable as against the state taking such action.

If both parties to the dispute, when so invited, refuse to accept the obligations of membership in the League for the purposes of such dispute, the Executive Council may take such action and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.

## XVIII.

## TRADE IN AMMUNITION

The high contracting parties agree that the League shall be intrusted with general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest.

## XIX.

## CONTROL OF COLONIES AND TERRITORIES

To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the states which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the wellbeing and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in the constitution of the League.

The best method of giving practical effect to this principle is that the tutelage of such peoples should be intrusted to advanced nations who by reason of their resources, their experience or their geographical position, can best undertake this responsibility, and that this tutelage should be exercised by them as mandatories on behalf of the League.

The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized, subject to the rendering of administrative advice and assistance by a mandatory power until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the mandatory power.

Other peoples, especially those of Central Africa, are at such a stage that the mandatory must be responsible for the administration of the territory subject to conditions which will guarantee freedom of conscience or religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes



and the defense of territory, and will also secure equal opportunities for the trade and commerce of other members of the League.

There are territories, such as Southwest Africa and certain of the South Pacific islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centers of civilization, or their geographical contiguity to the mandatory state, and other circumstances, can be best administered under the laws of the mandatory state as integral portions thereof, subject to the safeguards above mentioned in the interests of the indigenous population.

In every case of mandate, the mandatory state shall render to the League an annual report in reference to the territory committed to its charge.

The degree of authority, control or administration to be exercised by the mandatory state shall, if not previously agreed upon by the high contracting parties in each case, be explicitly defined by the Executive Council in a special act or charter.

The high contracting parties further agree to establish at the seat of the League a Mandatory Commission to receive and examine the annual reports of the mandatory powers, and to assist the League in insuring the observance of the terms of all mandates.

MR. WILSON—Let me say that before being embodied in this document this was the subject matter of a very careful discussion by representatives of the five greater parties, and that their unanimous conclusion is the matter embodied in this article.

## XX.

### INTERNATIONAL LABOR BUREAU

The high contracting parties will endeavor to secure and maintain fair and humane conditions of labor for men, women and children both in their own countries and in all countries to which their commercial and industrial relations extend; and to that end agree to establish as part of the organization of the League a permanent Bureau of Labor.

## XXI.

## FREEDOM OF COMMERCIAL TRANSIT

The high contracting parties agree that provision shall be made through the instrumentality of the League to secure and maintain freedom of transit and equitable treatment for the commerce of all states members of the League, having in mind, among other things, special arrangements with regard to the necessities of the regions devastated during the war of 1914-1918.

## XXII.

## INTERNATIONAL BUREAUS

The high contracting parties agree to place under the control of the League all International Bureaus already established by general treaties, if the parties to such treaties consent. Furthermore, they agree that all such International Bureaus to be constituted in future shall be placed under the control of the League.

## XXIII.

## REGISTRATION AND PUBLICATION OF TREATIES

The high contracting parties agree that every treaty or international engagement entered into hereafter by any state member of the League, shall be forthwith registered with the Secretary General and as soon as possible published by him, and that no such treaty or international engagement shall be binding until so registered.

## XXIV.

## REVIEW OF TREATIES

It shall be the right of the Body of Delegates from time to time to advise the reconsideration by states members of the League, of treaties which have become inapplicable, and of international conditions, of which the continuance may endanger the peace of the world.

## XXV.

## ABROGATION OF TREATIES

The high contracting parties severally agree that the present covenant is accepted as abrogating all obligations *inter se* which are inconsistent with the terms thereof, and solemnly engage that they will not hereafter enter into any engagements inconsistent with the terms thereof.

In case any of the powers signatory hereto or subsequently admitted to the League shall, before becoming a party to this covenant, have undertaken any obligations which are inconsistent with the terms of this covenant, it shall be the duty of such power to take immediate steps to procure its release from such obligations.

## XXVI.

## AMENDMENTS TO COVENANT

Amendments to this covenant will take effect when ratified by the states whose representatives compose the Executive Council and by three-fourths of the states whose representatives compose the Body of Delegates.

MR. WILSON—It gives me pleasure to add to this formal reading of the result of our labors that the character of the discussion which occurred at the sittings of the commission was not only of the most constructive but of the most encouraging sort. It was obvious throughout our discussions that, although there were subjects upon which there were individual differences of judgment, with regard to the method by which our objects should be obtained, there was practically at no point any serious differences of opinion or motive as to the objects which we were seeking. Indeed, while these debates were not made the opportunity for the expression of enthusiasm and sentiments, I think the other members of the commission will agree with me that there was an undertone of high respect and of enthusiasm for the thing we were trying to do, which was heartening throughout every meeting.

It was because we felt that in a way this Conference did intrust unto us the expression of one of its highest and most important purposes, to see to it that the concord of the world in the future

with regard to the objects of justice should not be subject to doubt or uncertainty; that the co-operation of the great body of nations should be assured in the maintenance of peace upon terms of honor and of international obligations. The compulsion of that task was constantly upon us, and at no point was there shown the slightest desire to do anything but suggest the best means to accomplish that great object.

There is very great significance, therefore, in the fact that the result was reached unanimously. Fourteen nations were represented, among them all of those powers which for convenience we have called the great powers, and among the rest a representation of the greatest variety of circumstances and interests. So that I think we are justified in saying that the significance of the result, therefore, has the deepest of all meanings, the union of wills in a common purpose, a union of wills which cannot be resisted, and which, I dare say, no nation will run the risk of attempting to resist.

#### LEAGUE OF SIMPLE STRUCTURE

Now as to the character of the document. While it has consumed some time to read this document, I think you will see at once that it is very simple, and in nothing so simple as in the structure which it suggests for a League of Nations—a Body of Delegates, an Executive Council and a Permanent Secretariat.

When it came to the question of determining the character of the representation in the Body of Delegates, we were all aware of a feeling which is current throughout the world. Inasmuch as I am stating it in the presence of the official representatives of the various Governments here present, including myself, I may say that there is a universal feeling that the world cannot rest satisfied with merely official guidance. There has reached us through many channels the feeling that if the deliberating body of the League of Nations was merely to be a body of officials representing the various Governments, the peoples of the world would not be sure that some of the mistakes which preoccupied officials had admittedly made might not be repeated. It was impossible to conceive a method or an assembly so large and various as to be really representative of the great body of the peoples of the world, because, as I roughly reckon it, we represent, as we sit around this table, more than twelve hundred million people. You cannot have a representative assembly of 1,200,000,000 people; but if you leave it to each Government to have, if it pleases, one or two or three representatives, though only with a single vote, it may vary its

representation from time to time, not only, but it may originate the choice of its several representatives. . . .

### VARIETY OF REPRESENTATION

Therefore, we thought that this was a proper and very prudent concession to the practically universal opinion of plain men, everything that everyone wanted, the door left open to a variety of representation, instead of being confined to a single official body with which they could or might not find themselves in sympathy.

And you will notice that this body has unlimited rights of discussion—I mean of discussion of anything that falls within the field of international relations—and that it is especially agreed that war or international misunderstandings, or anything that may lead to friction or trouble is everybody's business, because it may affect the peace of the world.

And in order to safeguard the popular power, so far as we could, of this representative body, it is provided, you will notice, that when a subject is submitted it is not to arbitration, but to discussion by the Executive Council. It can, upon the initiative of either of the parties to the dispute, be drawn out of the Executive Council to the larger forum of the general Body of Delegates; because through this instrument we are depending primarily and chiefly upon one great force, and this is the moral force of the public opinion of the world—the pleasing and clarifying and compelling influences of publicity; so that intrigues can no longer have their coverts, so that designs that are sinister can at any time be drawn into the open, so that those things that are destroyed by the light may be promptly destroyed by the overwhelming light of the universal expression of the condemnation of the world.

Armed force is in the background in this program, but it is in the background; and if the moral force of the world will not suffice, the physical force of the world shall. But that is the last resort, because this is intended as a constitution of peace, not as a league of war.

### VEHICLE OF LIFE, NOT STRAITJACKET

The simplicity of the document seems to me to be one of its chief virtues, because, speaking for myself, I was unable to see the variety of circumstances with which this League would have to deal. I was unable, therefore, to plan all the machinery that might be necessary to meet the differing and unexpected contingencies. Therefore, I should say of this document that it is not



a straitjacket but a vehicle of life. A living thing is born, and we must see to it what clothes we put on it.

It is not a vehicle of power, but a vehicle in which power may be varied at the discretion of those who exercise it and in accordance with the changing circumstances of the time. And yet, while it is elastic, while it is general in its terms, it is definite in the one thing that we were called upon to make definite. It is a definite guaranty of peace. It is a definite guaranty by word against aggression. It is a definite guaranty against the things which have just come near bringing the whole structure of civilization into ruin. Its purposes do not for a moment lie vague. Its purposes are declared, and its powers are unmistakable. It is not in contemplation that this should be merely a League to secure the peace of the world. It is a League which can be used for co-operation in any international matter.

#### LABOR GIVEN NEW STATUS

That is the significance of the provision introduced concerning labor. There are many ameliorations of labor conditions which can be effected by conference and discussion. I anticipate that there will be a very great usefulness in the bureau of labor which it is contemplated shall be set up by the League. Men and women and children who work have been in the background through long ages, and sometimes seemed to be forgotten, while Governments have had their watchful and suspicious eyes upon the maneuvers of one another, while the thought of statesmen has been about structural action and the larger transactions of commerce and of finance. Now, if I may believe the picture which I see there comes into the foreground the great body of the laboring people of the world, the men and the women and the children upon whom the great burden of sustaining the world must from day to day fall, whether we wish it to do so or not; people who go to bed tired and wake up without the stimulation of lively hope. These people will be drawn into the field of international consultation and help, and will be among the wards of the combined Governments of the world. There is, I take leave to say, a very great step in advance in the mere conception.

#### TREATIES MUST BE PUBLISHED

Then, as you will notice, there is an imperative article concerning the publicity of all international agreements. Henceforth no

member of the League can claim any agreement valid which has not been registered with the Secretary General, in whose office, of course, it will be subject to the examination of anybody representing a member of the League. And the duty is laid upon the Secretary General to publish every document of that sort at the earliest possible time. I suppose most persons who have not been conversant with the business of foreign affairs do not realize how many hundreds of these agreements are made in a single year, and how difficult it might be to publish the more unimportant of them immediately, how uninteresting it would be to most of the world to publish them immediately; but even they must be published just as soon as it is possible for the Secretary General to publish them.

Then there is a feature about this covenant which, to my mind, is one of the greatest and most satisfactory advances that has been made. We are done with annexations of helpless people, meant, in some instances by some powers, to be used merely for exploitation. We recognize in the most solemn manner that the helpless and undeveloped peoples of the world, being in that condition, put an obligation upon us to look after their interests primarily, before we use them for our interests, and that in all cases of this sort hereafter it shall be the duty of the League to see that the nations who are assigned as the tutors and advisers and directors of these peoples shall look to their interests and their development before they look to the interests and desires of the mandatory nation itself.

There has been no greater advance than this, gentlemen. If you look back upon the history of the world you will see how helpless peoples have too often been a prey to powers that had no conscience in the matter. It has been one of the many distressing revelations of recent years that the great power which has just been, happily, defeated, put intolerable burdens and injustices upon the helpless people in some of the colonies which it annexed to itself, that its interest was rather their extermination than their development; that the desire was to possess their land for European purposes, and not to enjoy their confidence in order that mankind might be lifted in these places to the next higher level.

Now, the world, expressing its conscience in law, says there is an end to that, that our consciences shall be settled to this thing. States will be picked out which have already shown that they can exercise a conscience in this matter, and under their tutelage the helpless peoples of the world will come into a new light and into a new hope.

## SYMPATHY IN IT

So I think I can say of this document that it is at one and the same time a practical document and a human document. There is a pulse of sympathy in it. There is a compulsion of conscience throughout it. It is practical, and yet it is intended to purify, to rectify, to elevate.

And I want to say that so far as my observation instructs me, this is in one sense a belated document. I believe that the conscience of the world has long been prepared to express itself in some way. We are not just now discovering our sympathy for these people and our interest in them. We are simply expressing it, for it has long been felt and in the administration of the affairs of more than one of the great states represented here—so far as I know, all the great states that are represented here—that humane impulse has already expressed itself in their dealings with their colonies, whose peoples were yet at a low stage of civilization.

We have had many instances of colonies lifted into the sphere of complete self-government. This is not the discovery of a principle. It is the universal application of a principle. It is the agreement of the great nations which have tried to live by these standards in their separate administrations to unite in seeing that their common force and their common thought and intelligence are lent to this great and humane enterprise. I think it is an occasion, therefore, for the most profound satisfaction that this humane decision should be reached in a matter for which the world has long been waiting and until a very recent period thought that it was still too early to hope.

Many terrible things have come out of this war, gentlemen, but some very beautiful things have come out of it. Wrong has been defeated, but the rest of the world has been more conscious than it was ever before of the superiority of right. People that were suspicious of one another can now live as friends and comrades in a single family, and desire to do so. The miasma of distrust, of intrigue, is cleared away. Men are looking eye to eye and saying, "We are brothers and have a common purpose. We did not realize it before, but now we do realize it, and this is our covenant of friendship."

## PUBLICATION A GOOD OMEN

LORD ROBERT CECIL (Great Britain)—Mr. President and Gentlemen: I rejoice very much that the course which has been taken this afternoon has been pursued. It seems to me a good omen for the great project in which we are engaged that before its final completion it should have been published to the world and laid before all its people for their service and for their criticism. The President spoke of the spirit which animated the commission over which he presided with such distinction. I gladly bear my testimony to the complete accuracy, both in letter and in spirit, of everything which he has said about it.

It was, indeed, a pleasure to serve with such colleagues, and but for the common purpose and the common devotion to that purpose, it would have been impossible for us to have accomplished the task set before us within the time which was given to it. For, after all, the problem which we were engaged in solving was one of great difficulty. As I see it, it was to devise some really effective means of preserving the peace of the world consistent with the least possible interference with national sovereignty.

You have heard the covenant and it is unnecessary for me to dwell on its details. We have sought to safeguard the peace of the world by establishing certain principles. The first and chiefest of them is that no nation shall go to war with any other nation until every other possible means of settling the dispute shall have been fully and fairly tried. Secondly, we lay down that under no circumstances shall any nation seek forcibly to disturb the territorial settlement to be arrived at as the consequence of this peace or interfere with the political independence of any of the states in the world. These are the two great precepts which we seek to lay down for the government of international relations.

## ARMAMENT FOR AGGRESSION FORBIDDEN \*

And we have recognized that if these principles are really to be acted upon we must go one step further and lay it down that no nation must retain armament on a scale fitted only for aggressive purposes. I do not doubt that the working out of that principle will be difficult, but it is laid down clearly in this document, and the organs of the League are intrusted with the duty of producing for the consideration and support of the world a workable scheme for carrying it into effect.



And, finally, we have thought that if the world is to be at peace it is not enough to forbid war. We must do something more than that. We must try and substitute for the principle of international competition that of international co-operation, and you will find at the end of this document a number of clauses, which point out the various respects in which the world can better discharge its duties by the co-operation of each nation for purposes which are beneficial to the whole of them. They are the examples of what may be done. There are many omissions.

There is one clause which points out that in future international co-operation shall be made subject to and connected with the League of Nations. Certainly I should hope that there are such questions as the opium trade, the white slave traffic, and, in another order of ideas, the regulation of the arteries of the air, which, besides those mentioned in this document, call earnestly for effective international co-operation. Certain it is that if we can once get the nations of the world into the habit of co-operating with one another, you will have struck a great blow at the source or origin of almost all the world wars which have defaced the history of the world. Those, I believe, are the principles on which we have relied for the safe-guarding of peace.

#### NATIONAL SOVEREIGNTY AND INTERNATIONAL LIBERTY

And as to national sovereignty, we have thought, in the first place, that the League should not in any respect interfere with the international liberties of any nation. I do not regard the clause which deals with labor as any such interference, for it is quite certain that no real progress in ameliorating the conditions of labor can be hoped for except by international agreement. Therefore, although the conditions of labor in a country are a matter of internal concern, yet, under the conditions under which we now live that is not so in truth, and bad conditions of labor in one country operate with fatal effect in depressing conditions of labor in another.

Secondly, we have laid down (and this is the great principle of the delegates except in very special cases and for very special reasons which are set out in the covenant) that all action must be unanimously agreed to in accordance with the general rule that governs international relations. That this will to some extent, in appearance at any rate, militate against the rapidity of action of the organs of the League is undoubted. In my judgment, that defect is far more than compensated by the confidence that it will



inspire that no nation, whether small or great, need fear oppression from the organs of the League.

Gentlemen, I have little more to say. The President has pointed out that the frame of the organization suggested is very simple. He has alluded to some respects in which some may think it might have been more elaborate, but I agree with him that simplicity is the essence of our plan. We are not seeking to produce for the world a building finished and complete in all respects. To have attempted such a thing would have been an arrogant piece of folly. All we have tried to do—all we have hoped to do—is to lay soundly and truly the foundations upon which our successors may build. I believe those foundations have been well laid out, and it depends upon those who come after us what will be the character and stability of the building erected upon them.

If it is merely a repetition of the old experiments of alliance, designed for however good a purpose, believe me, gentlemen, our attempt is doomed to failure. It must be a practical thing,—and this is the real point,—instinct with a genuine attempt to achieve the main objects we have in view. And if those who build on those foundations really believe that the interest of one is the interest of all and that the prosperity of the world is bound up with the prosperity of each nation that makes it up—that goes to compose the family—then only will the finished structure of the League of Nations be what it ought to be—a safeguard and a glory for the humanity of the world.

### ONE OF HISTORY'S GREAT DOCUMENTS

SIGNOR ORLANDO (Italy; as interpreted)—If I have asked to take part in this debate, it is to express my deep satisfaction at having co-operated in the first production of what is going to be one of the great documents of history, and I hope that my present feeling will be fully justified.

We all expect from the discussion and development of the present act a renewal of the whole world, but as the present debate has for its object to bring the whole scheme before the public opinion of the world, I wish to bring to that debate my personal contribution.

I am not going to speak on the general aim of the scheme. This has been formulated by the men who have the highest and noblest right to do it, and I am not here to insist upon the main and fundamental principles. This is what Lord Robert Cecil has done with vigorous lucidity of mind. But I have something

to say on the general method upon which our work has been conducted. Our task, gentlemen, was one of incomparable difficulty. We were faced with two absolute principles, the conciliation of which would seem to be logically impossible—on one side the sovereignty of states, admitting of no limitation, and, on the other hand, a limit, imposed upon the action of states, so that rights might be conciliated and so that the liberty of states should not include the liberty of doing wrong.

### SELF-CONSTRAINT OF NATIONS THE KEYNOTE

Now, we have been able to conciliate these two principles on the basis of self-constraint. The Governments have recognized that limit, and they will make it effective in each case, as there will be the overwhelming pressure of the public opinion of the world.

I do not forget the possibility that such a scheme has been the object of attacks by skeptics, some of them, according to their temper, in sorrowful tones, others in an ironical mood. I will answer them as the Greek philosopher did, when the reality of movement was denied in his presence, and he answered by rising to his feet and walking. The possibility of collective international action has been demonstrated by the work of our committee itself, there being eminent statesmen there representing the interests of the most divergent national existences, and they had to face problems, which were difficult and puzzling. But even in spite of this we have agreed in a short time and after full discussion, where all the difficulties of solution were shown, and we had an opportunity of seeing which of the solutions was the best and wisest.

We reached our agreement after periods of suspense and reflection. Then we felt that something was growing and ripening, as a grain in the earth, and what has taken place at this time and will take place in the future is but an example of how that idea can work in its reality in a tangible form. If that idea is going to be transformed into a reality, it is because of the generous and occult influence of all the blood that has been spilt, of all the terrible bereavement of the whole world.

After great wars in the past men have erected splendid monuments to glorify the fallen heroes, with their names inscribed on the walls. But the greatest monuments of the world, even the pyramids of Egypt, would not be equal, under the present circumstances, where millions of men have died for a cause, to this document. The pact which has been brought here to-day is the

monument we intend to erect. This document of freedom and right was not born in vain, and it represents the redemption of humanity by sacrifice.

#### DEEP SATISFACTION OF FRANCE

MR. BOURGEOIS (France; as interpreted)—I rise to express the deep satisfaction of all, and of France more than any other country, because she is among the countries who have suffered most, to see the unity of our wills and of our hearts in a passionate adhesion to the principles of the League of Nations. That act of faith we shall make in a spirit of cordiality and good will that has been that of the committee. Under the eminent chairmanship of President Wilson, the committee has worked with all their hearts to attain this great object.

Lord Robert Cecil has said we now present to the Conference and to the world the result of our work, but we do not present it as something that is final, but only as the result of an honest effort, to be discussed and to be examined not only by this Conference, but the public opinion of the world.

We are unanimous in our opinion that this scheme must be presented to the world as it resulted from our deliberations. We must preserve the character of the unanimity which its vote has given it. We still retain our rights, when further discussions take place, to state more definitely our views on some details. Signor Orlando has said how difficult it seemed at the beginning to conciliate two apparently contradictory principles—that of the sovereignty of nations and that of the limitations which nations must accept in order to secure the reign of right and justice. That conciliation has taken place without effort and we have demonstrated movement, as Signor Orlando said, by walking.

We rise to prevent the renewal of a war like that which we have just seen; we rise at the appeal of all those who have fallen to spare their offspring the renewal of such an ordeal. We are persuaded that no war in the future can be limited to a small area. The interdependence of the different parts and different interests of the world has become such that no conflict can be limited. It is that the whole world may keep itself from danger that we to-day have ordained that right and justice must be the basis of settlement in all the conferences. In the view of just people, there are no small and no great states. All are, and all will be, equal before the principle of international justice; and in the tribunal that will give the decisions the judges will sit, not as the representatives of one particular nation, but as the representatives of

international right. This is a principle to which we are particularly attached. All the states, in consenting to submit to international justice, take at the same time a definite pledge to guarantee to each other the integrity of their territories as established by the settlement of the present peace treaty, and also to guarantee their political independence against future aggression. This is the object of our scheme. I hope the means which are suggested by it will allow us to attain our object.

### THE COMMON BODY OF HUMANITY

We have established a certain number of judicial principles and international organizations binding the states together, binding them to a common work and binding them to the truce without which their common development would be impossible. These organizations, the creation of which is provided for in the last articles of the covenant, are similar to some which have existed already, but which were scattered through various parts of the world and which had never been brought together to form part of the common body of humanity. The foundation is now laid, and we are certain that the organizations will be multiplied and will help humanity more and more to attain its common aims.

We have been unanimous in proclaiming these principles, and we have felt the force of these principles so much that we have no doubt that a strong light will penetrate even into the darkest parts, that the light radiating from these principles will find its way in lands that seem to be the least open to it.

But it is not enough to proclaim such great principles. We must organize a system of guaranties and a system of action, both judicial and practical. The plan laid down is a clear and simple one. There is a Council, where all the states are represented equally, each having only one vote, and there is an Executive Committee, which is constituted on a different principle. But even in this case, where it has been found necessary for purposes of action to give five votes to the larger powers, the principle of equality has been secured by giving as much as four votes to the smaller states. Respect for the decisions given by that body will be assured by definite rules, the violation of which shall be considered as an act of war against all the contracting states. If one state—it may be the smallest and most remote of all the states—is attacked without justification, then the whole of the League of Nations is being attacked, and will resist. But we must go further. In order to secure the execution of international sentences there must be a limitation of armaments. This has been



the wish of the world for a great many years. What was formerly so difficult has to-day become possible. Our victory has made it possible, because it has enabled us to disarm the barbaric force that was in the way of such an improvement. That limitation must be such that no state can be capable of prevailing against the will of the law of nations, but at the same time each state should be strong enough to contribute to the force that will enable the League of Nations to impose its will. There has been unanimity upon all these points.

### DANGERS TO STATES UNEQUAL

There are one or two points upon which I wish particularly to insist because they are connected with dangers that may be of special moment to some of us, dangers that may arise not equally for all.

There are special dangers for countries like France, Belgium, Serbia and the new states that are in the stage of formation in central Europe. It is necessary to give them special guaranties, and this has been recognized by the committee when it states that special account should be taken of the geographical situation of, and the mode of application to, each state in the scale of armaments. Where the frontiers are more exposed it must be possible to have stronger systems of defense and, possibly also, greater armaments. This is all right; but there is no doubt that it will put on the shoulders of the nations that happen to be in that difficult position a special burden. It will hamper them in the peaceful competition that is the life of the world.

And here again two practical questions must be put. To give all nations necessary security, the principle of the limitation of armaments must not only be executed but executed very fast. It has been said—and no one has said it more forcefully than President Wilson—that modern war has become a war of material; that in such a war as the one we have just seen, and such as we hope never to see in the future, what has triumphed has been science turned into barbarism. Now it is necessary for us to control the war industries all over the world. The nations who are the contracting parties of the covenant pledge themselves mutually to communicate to each other full information about their armaments and their means of production. This is a very good plan, with which I am particularly satisfied.

At the same time, I propose an amendment, which I think I ought to mention. I thought it would be necessary to institute a permanent organization for purposes of inspection, and this



amendment was not at the moment embodied in the text. We have accepted the text as it is before you and we now mention that amendment. It is because, as the whole scheme is going to be discussed by the world, it is better that all the points that have given occasion for important observations should be mentioned.

#### DELAY OF AID SHOULD BE PREVENTED

Here is a second point. Take the state that violates the international covenant. That state is supposed to be in a state of war against all the members of the League, and all are prepared to compel it to execute its obligations. But war is not something that can proceed at once, especially when the question is how to bring together forces belonging to states which are very different from each other and may be at the four corners of the world. Each nation will have to wait in order to act until a certain procedure is gone through and until for each particular nation a vote has been taken by its parliament—and so on. This means time and delay. And, supposing that there is on the part of the aggressor a will to precipitate a situation, then we must provide for the possibility. For this purpose it would be desirable to have all the means of resistance studied and concerted action prepared before the occasion arises. This would be the best check against any ill design.

If the would-be aggressor knows that resistance is fully prepared against any action such as he contemplated, then he will be restrained. Where, on the other hand, he knows that no such preparation exists and that sudden action on his part would encounter no prepared and well-thought-out resistance, perhaps he would not be restrained and it would be extremely dangerous. If you do not wish to see the terrible ordeal through which the world has passed renewed in the future, we ought to have a permanent organization to prepare the military and naval means of execution and make them ready in case of emergency.

This has been objected to by some members of the committee, because it involved some difficult constitutional problems. This is why we have agreed to the text without that amendment, but we think the principle of that proposed amendment ought to be put before public opinion at the same time as the scheme to which we have agreed.

I hope that no one, either here or anywhere in the world, will be mistaken about my intention. I will not say, and I have not said, a word that could weaken the feeling of our complete and hearty unanimity. We have acted with one heart for the tri-

umph of the cause, which is that of our Conference, the cause of right against violence, the cause of right against might. We believe that this scheme that is now before us is an excellent one. We believe in its virtues and its possibilities. The observations we have made on some points will, we hope, be of some value in the further discussions, since we are at the beginning of the examination of the whole plan.

Now we must, at the end, express our deep gratitude toward our colleagues, and our deep gratitude toward President Wilson, who presided over our labors in such a competent way and with such high spirit, and we wish still more to express the sincere wish of France to see that the great pact becomes, possibly with some improvement on the two points I have mentioned, the law of nations.

#### EAGER EXPECTANCY OF BRITISH LABOR

MR. BARNES (Great Britain)—Mr. President: As representing especially the working folk of Great Britain, I just want to make a very few observations.

I think I know the mind of the British people on this question of a League of Nations, and I can assure you that it is one of eager expectancy. The people of Great Britain have shouldered their burden during the war, but through all its struggles and sacrifices they have looked eagerly forward to the day when aggressive war shall be no more. That day is dawning and, I believe, has been hastened by the work of the last month.

To my mind, Mr. President, there are three outstanding principles in this document which, I believe, will stand out conspicuously as landmarks in the history of mankind.

First of all, the substitution of an altruistic principle for imperialism and violence in the adjustment of international affairs. Nations which have suffered and sacrificed in the acquisition of territory have agreed to the overseership of the League of Nations in the administration of that territory. They have further agreed to the principle that the welfare and assent of the peoples shall be the determining consideration in its administration. There is in this agreement, Mr. President, to my mind a great advance in the application of the principle of moral idealism, and I can only say that I believe that that will strike the imagination of the world.

Second, they have agreed in principle on the reduction of armaments to a point of national safety as prescribed by the League of Nations. This, I believe to be the essential feature of

the condition of permanent peace. If there be an excess of guns there will always be a chance of them being fired off. I am, therefore, glad that in this document provision is made for the reduction of armaments, thereby, I believe, lessening the risk of war and easing the economic burden upon the people.

The third is a principle to which I wish to call the attention of the signatories to this document. They have agreed to a recognition of the evils of private profit in the manufacture of armaments, although for my part I should like to have seen a more robust declaration in favor of the abolition of private arms making. Abolition, I believe, is a step which will ultimately be found necessary, and I further hope that the Executive Council may be able to devise ways and means by which private profit may be eliminated, and I am perfectly sure that nothing would be more welcome to the minds of the working folk.

#### URGES REAL INTERNATIONAL FORCE

There are just one or two things, Mr. President, which, to my mind, might have been more explicit, and which, I believe, will have to be grafted on to a League of Nations as the idea of world unity becomes more widely accepted.

Let me mention one. I am afraid that when the time comes for the enforcement of decrees—if ever it does come, which God forbid—there may be delay and confusion on the part of the League. What I am afraid of is that an aggressive nation might again try to break through and win its way to its object before the forces of mankind can be mobilized against it. Therefore, I should have been glad to have seen some provision for the nucleus of an international force which would be ready to strike against any aggressor. This, I know, cuts into the idea of the sovereignty of nations, but I hope that there may be future discussion on the part of affiliated states as to how they can adjust their national life so as to admit of a greater degree of co-operation than there is in this document.

Finally, I gladly note the insertion of a clause providing for the formation of international charters of labor. Hitherto, nations had endeavored to protect themselves against low-paid labor by the imposition of tariff barriers. I hope we shall in the future, under the authority of the League of Nations, seek and find a better way by abolishing low-paid labor altogether. We hope to raise the life of labor from the mere struggle for bread on to the higher levels of justice and humanity.

The commission, Mr. Chairman, which was appointed a few

weeks ago to go into this matter, is now busily engaged on its detailed plan and we hope to report it in a few weeks. I can only say now, on behalf of that commission that we shall endeavor to bring ourselves in line with the epoch-making document which President Wilson has submitted to us to-day, and, through us, to the war-weary world.

#### AUTHORS DESERVE MANKIND'S GRATITUDE

BARON MAKINO (Japan)—I beg to add another voice to echo the congratulatory speeches that have been made on the presentation of a document which is, perhaps, the most important document that has been compiled by man. The great leaders with stanch purpose have personified this great movement, a movement involving intricate problems of divers nations, and they deserve the gratitude of their fellow-men for successfully piloting to this advanced stage a most effective instrument for the maintenance of the peace of the world. Their names will be written indelibly on the pages of history and that will be the grateful acknowledgment of humanity for their labor.

As I understand it, there is to be no discussion of the project before us. I will limit myself to these few remarks, observing that at a later stage in the discussion of this project I shall have the privilege of addressing certain propositions which I hope will receive earnest and favorable consideration from the distinguished men who represent the nations assembled here.

MR. HUGHES (British Empire, for Australia)—When will there be an opportunity to discuss the project fully? I take it that there is no opportunity now.

Delegates, generally—No, no!

M. CLEMENCEAU (President)—The project has been placed before you. You can have confidence in the Supreme Council, and be sure that there will be every chance given for further discussion.

The Arabian delegation also sounded a minor note of discord in calling attention to secret treaties which were said to interfere with the principle of self-determination expressed by the covenant.

# LEAGUE *of* NATIONS

Vol. II

*Special Number*

June, 1919

## Treaty of Peace With Germany

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### I

#### Official Summary

Of the Text Presented to the German Delegates by the  
Allied and Associated Powers, Versailles, May 7, 1919

### II

#### Covenant of the League of Nations

### III

#### Resolution of Indorsement

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# OFFICIAL SUMMARY OF THE TREATY OF PEACE WITH GERMANY

PRESENTED TO THE GERMAN DELEGATION,  
VERSAILLES, MAY 7, 1919.

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N. B. The text below follows the Second Print of the one issued by the Department of State, Division of Foreign Intelligence, under the title of "Semiofficial Summary of the Treaty of Peace between the twenty-seven Allied and Associated Powers and Germany, as handed to the German Plenipotentiaries at the Peace Conference on May 7, 1919." It has been checked against the official summary issued to the British press (*London Times*, May 8, pages 13-14, 16; May 9, pages 13-14), and the official résumé issued to the European press (*Le Temps*, May 9, pages 2-4). Annotations identify the principal discrepancies or aim to indicate the correct reading.

*Communiqué of the French Ministry for Foreign Affairs, May 7, 1919:*

In addition to the guaranties afforded in the treaty of peace, the President of the United States of America pledges himself to propose to the Senate of the United States, and the Prime Minister of Great Britain pledges himself to propose to the Parliament of Great Britain, an engagement, subject to the approval of the Council of the League of Nations, by the terms of which the United States and Great Britain shall lend immediately their assistance to France in case of unprovoked attack against her by Germany.

## PREAMBLE

The preamble names as parties of the one part the United States, the British Empire, France, Italy and Japan, described as the principal allied and associated powers; and

Belgium  
Bolivia  
Brazil  
China

Cuba  
Ecuador  
Greece  
Guatemala

Haiti  
The Hedjaz  
Honduras  
Liberia  
Nicaragua  
Panamá  
Perú

Poland  
Portugal  
Rumania  
Serbia  
Siam  
Czecho-Slovakia  
Uruguay

who, with the five above, are described as the allied and associated powers; and

on the other part, Germany.

The preamble states that, "bearing in mind that on the request of the then imperial German Government, an armistice was granted on November 11, 1918, by the principal allied and associated powers in order that a treaty of peace might be concluded with her; and

"Whereas, the allied and associated powers, being equally desirous that the war in which they were successively involved, directly or indirectly, and which originated in the declaration of war by Austria-Hungary July 28, 1914, against Serbia, the declaration of war by Germany against Russia on August 1, 1914, and against France on August 3, 1914, and in the invasion of Belgium, should be replaced by a firm, just and durable peace, the plenipotentiaries, having communicated their full powers found in good and due form, have agreed as follows:

"From the coming into force of the present treaty the state of war will terminate.

"From that moment, and subject to the provisions of this treaty, official relations with Germany and with each of the German states will be resumed by the allied and associated powers."

## SECTION I

### COVENANT OF THE LEAGUE OF NATIONS<sup>1</sup>

The Covenant of the League of Nations constitutes Section I of the peace treaty, which places upon the League many specific duties in addition to its general duties.

It may question Germany at any time for a violation of the neutralized zone east of the Rhine as a threat against the world's

<sup>1</sup> The French summary is entirely different as to form.

peace. It will appoint three of the five members of the Saar commission, oversee its régime and carry out the plébiscite. It will appoint the high commissioner of Danzig, guarantee the independence of the free city, and arrange for treaties between Danzig and Germany and Poland. It will work out the mandatory system to be applied to the former German colonies, and act as a final court in part of the plébiscites of the Belgian-German frontier and in disputes as to the Kiel Canal, and decide certain of the economic and financial problems.

An international conference on labor is to be held in October under its direction, and another on the international control of ports, waterways and railways is foreshadowed.

### *Membership*

The members of the League will be the signatories of the Covenant and other states invited to accede, who must lodge a declaration of accession without reservation within two months. Any state, dominion or colony may be admitted, provided its admission is agreed to by two-thirds of the Assembly. A state may withdraw upon giving two years' notice, if it has fulfilled all its international obligations.

### *Secretariat*

A permanent Secretariat will be established at the seat of the League, which will be at Geneva.

### *Assembly*

The Assembly will consist of representatives of the members of the League, and will meet at stated intervals. Voting will be by states. Each member will have one vote and not more than three representatives.

### *Council*

The Council will consist of representatives of the principal great allied powers, together with representatives of four members selected by the Assembly from time to time; it may co-opt additional states and will meet at least once a year. Members not represented will be invited to send a representative when questions

affecting their interests are discussed. Voting will be by states. Each state will have one vote and not more than one representative. Decisions taken by the Assembly and Council must be unanimous, except in regard to procedure and in certain cases specified in the Covenant and in the treaty, where decisions will be by a majority.

### *Armaments*

The Council will formulate plans for a reduction of armaments for consideration and adoption. These plans will be revised every ten years. Once they are adopted, no member must exceed the armaments fixed without concurrence of the Council. All members will exchange full information as to armaments and programs, and a permanent commission will advise the Council on military, naval and air questions.

### *Prevention of War*

Upon any war, or threat of war, the Council will meet to consider what common action shall be taken. Members are pledged to submit matters of dispute to arbitration or inquiry and not to resort to war until three months after the award. Members agree to carry out an arbitral award, and not to go to war with any party to the dispute which complies with it; if a member fails to carry out the award the Council will propose the necessary measures. The Council will formulate plans for the establishment of a permanent Court of International Justice to determine international disputes or to give advisory opinions. Members who do not submit their case to arbitration must accept the jurisdiction of the Assembly<sup>1</sup>. If the Council, less the parties to the dispute, is unanimously agreed upon the rights of it, the members agree that they will not go to war with any party to the dispute which complies with its recommendations. In this case a recommendation by the Assembly, concurred in by all its members represented on the Council and a simple majority of the rest, less the parties to the dispute, will have the force of a unanimous recommendation by the Council. In either case, if the necessary agreement cannot be secured, the members reserve the right to take such action as may be necessary for the maintenance of right and justice. Members resorting to

<sup>1</sup> Or of the Council, according to the Second Print.

war in disregard of the Covenant will immediately be debarred from all intercourse with other members. The Council will in such cases consider what military or naval action can be taken by the League collectively for the protection of the covenants, and will afford facilities to members co-operating in this enterprise.

### *Validity of Treaties*

All treaties or international engagements concluded after the institution of the League will be registered with the Secretariat and published. The Assembly may from time to time advise members to reconsider treaties which have become inapplicable or involve danger to peace. The Covenant abrogates all obligations between members inconsistent with its terms, but nothing in it shall affect the validity of international engagements, such as treaties of arbitration or regional understandings, like the Monroe doctrine, for securing the maintenance of peace.

### *The Mandatory System*

The tutelage of nations not yet able to stand by themselves will be intrusted to advanced nations who are best fitted to undertake it. The Covenant recognizes three different stages of development requiring different kinds of mandatories.

(a)—Communities like those belonging to the Turkish Empire, which can be provisionally recognized as independent, subject to advice and assistance from a mandatory, in whose selection they would be allowed a voice.

(b)—Communities like those of Central Africa, to be administered by the mandatory under conditions generally approved by the members of the League where equal opportunities for trade will be allowed to all members; certain abuses, such as trade in slaves, arms and liquor, will be prohibited, and the construction of military and naval bases and the introduction of compulsory military training will be disallowed.

(c)—Other communities, such as Southwest Africa and the South Pacific Islands, best administered under the laws of the mandatory as integral portions of its territory.

In every case the mandatory will render an annual report, and the degree of its authority will be defined.



*General International Provisions*

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the members of the League will in general endeavor, through the international organization established by the labor convention, to secure and maintain fair conditions of labor for men, women and children in their own countries and other countries, and undertake to secure just treatment of the native inhabitants of territories under their control; they will intrust the League with the general supervision over the execution of agreements for the suppression of traffic in women and children, etc., and the control of the trade in arms and ammunition with countries in which control is necessary; they will make provision for freedom of communication and transit and equitable treatment for commerce of all members of the League, with special reference to the necessities of regions devastated during the war; and they will endeavor to take steps for international prevention and control of disease. International Bureaus and Commissions already established will be placed under the League, as will those to be established in the future.

*Amendments*

Amendments to the Covenant will take effect when ratified by the Council and by a majority of the Assembly.

## SECTION II

## GEOGRAPHICAL FRONTIERS OF GERMANY

*Boundaries of Germany*

Germany cedes to France Alsace-Lorraine, 5,600 square miles in the southwest; and to Belgium, two small districts between Luxemburg and Holland, totaling 382 square miles. She also cedes to Poland the southeastern tip of Silesia, beyond and including Oppeln; most of Posen and West Prussia, 21,686 square miles, East Prussia being isolated from the main body by a part of Poland. She loses sovereignty over the northeasternmost tip of East Prussia, 40 square miles north of River Memel,<sup>1</sup> and the interna-

<sup>1</sup>The Niemen is referred to. The area alienated from Germany is 910 square miles, not 40, according to the *Geographical Review*, VII, No. 5, plate IV. The accompanying base map pamphlet of the American Geographical Society states

tionalized areas about Danzig, 729 square miles, and the basin of the Saar, 738 square miles, between the western border of the Rhenish Palatinate of Bavaria and the southeast corner of Luxemburg. The Danzig area consists of the V between the Nogat and Vistula rivers, made a W by the addition of a similar V on the west, including the City of Danzig. The southeastern third of East Prussia and the area between East Prussia and the Vistula, north of latitude 53 degrees 3 minutes, 5,788 square miles, is to have its nationality determined by popular vote, as is to be the case in part of Sleswig, 2,787 square miles.

### SECTION III

#### EUROPEAN POLITICAL CLAUSES

##### *Belgium*

Germany is to consent to the abrogation of the treaties of 1839, by which Belgium was established as a neutral state, and to agree in advance to any convention with which the allied and associated powers may determine to replace them.

She is to recognize the full sovereignty of Belgium over the contested territory of Moresnet and over part of Prussian Moresnet, and to renounce in favor of Belgium all rights over the circles of Eupen and Malmédy, the inhabitants of which are to be entitled within six<sup>1</sup> months to protest against this change of sovereignty either in whole or in part, the final decision to be reserved to the League of Nations. A commission is to settle the details of the frontier, and various regulations for change of nationality are laid down<sup>2</sup>.

##### *Luxemburg*

Germany renounces her various treaties and conventions with the Grand Duchy of Luxemburg, recognizes that it ceased to be part of the German *zollverein* from January 1 last, renounces all right of exploitation of its railroads, adheres to the abrogation of

that its map was prepared from data furnished by the American Commission to Negotiate Peace.

<sup>1</sup>The French summary says five months.

<sup>2</sup>"Territories acquired by Belgium will be free of all obligations" is added in the English text.

its neutrality, and accepts in advance any international agreements as to it reached by the allied and associated powers.

### *Left Bank of the Rhine*

As provided in the military clauses, Germany will not maintain any fortifications or armed forces less than 50 kilometers to the east of the Rhine. In the above area Germany may maintain no armed forces, either permanent or temporary, nor hold any maneuvers, nor maintain any works to facilitate mobilization. In case of violation, "she shall be regarded as committing a hostile act against the powers who sign the present treaty, and as intending to disturb the peace of the world. . . . By virtue of the present treaty Germany shall be bound to respond to any request for an explanation which the Council of the League of Nations may think it necessary to address to her."

### *The Saar*

In compensation for the destruction of coal mines in Northern France and as payment on account of reparation, Germany cedes to France full ownership of the coal mines of the Saar basin with their subsidiaries, accessories and facilities. Their value will be estimated by the reparation commission and credited against that account. The French rights will be governed by German law in force at the armistice, excepting war legislation, France replacing the present owners, whom Germany undertakes to indemnify. France will continue to furnish the present proportion of coal for local needs and contribute in just proportion to local taxes. The basin extends from the frontier of Lorraine as reannexed to France north as far as St. Wendel, including on the west the valley of the Saar as far as Saarhölzbach, and on the east the town of Homburg.

In order to secure the rights and welfare of the population and guarantee to France entire freedom in working the mines, the territory will be governed by a commission appointed by the League of Nations and consisting of five members — one French, one a native inhabitant of the Saar and three representing three different countries other than France and Germany<sup>1</sup>.

<sup>1</sup>The French text specifies that the native commissioner shall not be French, and adds that the commission's powers are "for one year and renewable."

The League will appoint a member of the commission as chairman to act as executive of the commission. The commission will have all powers of government formerly belonging to the German Empire, Prussia and Bavaria; will administer the railroads and other public services and have full power to interpret the treaty clauses.

The local courts will continue, but subject to the commission. Existing German legislation will remain the basis of the law, but the commission may make modification after consulting a local representative assembly, which it will organize. It will have the taxing power, but for local purposes only; new taxes must be approved by this assembly. Labor legislation will consider the wishes of the local labor organizations and the labor program of the League. French and other labor may be freely utilized, the former being free to belong to French unions. All rights acquired as to pensions and social insurance will be maintained by Germany and the Saar commission<sup>1</sup>.

There will be no military service, but only a local gendarmerie to preserve order. The people will preserve their local assemblies, religious liberties, schools and language, but may vote only for local assemblies. They will keep their present nationality, except so far as individuals may change it; those wishing to leave will have every facility with respect to their property.

The territory will form part of the French customs system, with no export tax on coal and metallurgical products going to Germany, nor on German products entering the basin, and for five years no import duties on products of the basin going to Germany or German products coming into the basin for local consumption. French money may circulate without restriction.

After 15 years a plébiscite will be held by communes to ascertain the desires of the population as to continuance of the existing régime under the League of Nations, union with France, or union with Germany. The right to vote will belong to all inhabitants over 20, resident therein at the signature of the treaty. Taking into account the opinions thus expressed, the League will decide the ultimate sovereignty. In any portion restored to Germany the German Government must buy out the French mines at an

<sup>1</sup>This does not appear in the English text, nor its precise equivalent in the French. The provision, nevertheless, is undoubtedly correct.

appraised valuation; if the price is not paid within six months thereafter, this portion passes finally to France. If Germany buys back the mines, the League will determine how much of the coal shall be annually sold to France.

### *Alsace-Lorraine*

After recognition of the moral obligation to repair the wrong done in 1871 by Germany to France and the people of Alsace-Lorraine, the territories ceded to Germany by the treaty of Frankfort are restored to France with their frontiers as before 1871, to date from the signing of the armistice, and to be free of all public debts.

Citizenship is regulated by detailed provisions distinguishing those who are immediately restored to full French citizenship, those who have to make a formal application therefor, and those for whom naturalization is open after three years<sup>1</sup>. The last-named class includes German residents in Alsace-Lorraine, as distinguished from those who acquire the position of Alsace-Lorrainers as defined in the treaty.

All public property and all private property of German ex-sovereigns passes to France without payment or credit. France is substituted for Germany as regards ownership of the railroads and rights over concessions of tramways. The Rhine bridges pass to France with the obligation for their upkeep.

For five years manufactured products of Alsace-Lorraine will be admitted to Germany free of duty to a total amount not exceeding in any year the average of the three years preceding the war, and textile materials may be imported from Germany to Alsace-Lorraine and re-exported free of duty. Contracts for electric power from the right bank must be continued for ten years.

For seven years, with possible extension to ten, the ports of Kehl and Strasburg shall be administered as a single unit by a French administrator appointed and supervised by the Central Rhine Commission. Property rights will be safeguarded in both ports and equality of treatment as respects traffic assured the national vessels and goods of every country.

Contracts between Alsace-Lorrainers and Germans are maintained save for France's right to annul on grounds of public inter-

<sup>1</sup>The French text refers to "those who shall claim French nationality after one year."



est. Judgments of courts hold in certain classes of cases, while in others a judicial exequatur is first required. Political condemnations during the war are null and void, and the obligation to repay war fines is established as in other parts of allied territory.

Various clauses adjust the general provisions of the treaty to the special conditions of Alsace-Lorraine, certain matters of execution being left to conventions to be made between France and Germany.

### *German Austria*

Germany recognizes the total independence of German Austria in the boundaries traced.

### *Czecho-Slovakia*

Germany recognizes the entire independence of the Czecho-Slovak state, including the autonomous territory of the Ruthenians south of the Carpathians, and accepts the frontiers of this state as to be determined, which in the case of the German frontier shall follow the frontier of Bohemia in 1914. The usual stipulations as to acquisition and change of nationality follow<sup>1</sup>.

### *Poland*

Germany cedes to Poland the greater part of Upper Silesia, Posen, and the province of West Prussia on the left bank of the Vistula. A field boundary commission of seven, five representing the allied and associated powers and one each representing Poland and Germany, shall be constituted within 15 days of the peace to delimit this boundary. Such special provisions as are necessary to protect racial, linguistic or religious minorities and to protect freedom of transit and equitable treatment of commerce other of nations shall be laid down in a subsequent treaty between the principal allied and associated powers and Poland.

### *East Prussia*

The southern and the eastern frontier of East Prussia as facing Poland is to be fixed by plébiscites, the first in the regency of

<sup>1</sup>The provisions referred to as translated from the French text follow: "Czecho-Slovak nationality is acquired by German subjects established on Czecho-Slovak territory. Within two years, these German subjects shall have the faculty of opting. The same provisions applies to Czecho-Slovaks, German subjects, established in Germany or finding themselves abroad."

Allenstein, between the southern frontier of East Prussia and the northern frontier of Regierungsbezirk Allenstein, from where it meets the boundary between East and West Prussia to its junction with the boundary between the circles of Oletsko and Angerburg, thence the northern boundary of Oletsko to its junction with the present frontier, and the second in the area comprising the circles of Stuhm and Rosenberg and the parts of the circles of Marienburg and Marienwerder east of the Vistula.

In each case German troops and authorities will move out within 15 days of the peace and the territories be placed under an international commission of five members appointed by the principal allied and associated powers, with the particular duty of arranging for a free, fair and secret vote. The commission will report the results of the plébiscites to the five powers with a recommendation for the boundary, and will terminate its work as soon as the boundary has been laid down and the new authorities set up.

The principal allied and associated powers will draw up regulations assuring East Prussia full and equitable access to and use of the Vistula. A subsequent convention, of which the terms will be fixed by the principal allied and associated powers, will be entered into between Poland, Germany and Danzig, to assure suitable railroad communication across German territory on the right bank of the Vistula between Poland and Danzig, while Poland shall grant free passage from East Prussia to Germany.

The northeastern corner of East Prussia about Memel is to be ceded by Germany to the allied and associated powers, the former agreeing to accept the settlement made, especially as regards the nationality of the inhabitants.

### *Danzig*

Danzig and the district immediately about it is to be constituted into the "Free City of Danzig" under the guaranty of the League of Nations. A high commissioner appointed by the League and resident at Danzig shall draw up a constitution in agreement with the duly appointed representatives of the city and shall deal in the first instance with all differences arising between the city and Poland. The actual boundaries of the city shall be delimited by a commission appointed within six months from the peace and to

include three representatives chosen by the allied and associated powers, and one each by Germany and Poland.

A convention, the terms of which shall be fixed by the principal allied and associated powers, shall be concluded between Poland and Danzig which shall include Danzig within the Polish customs frontiers, though with a free area in the port; insure to Poland the free use of all the city's waterways, docks and other port facilities; the control and administration of the Vistula and the whole through railway system within the city, and postal, telegraphic and telephonic communication between Poland and Danzig; provide against discrimination against Poles within the city, and place its foreign relations and the diplomatic protection of its citizens abroad in charge of Poland.

### *Denmark*

The frontier between Germany and Denmark will be fixed by the self-determination of the population. Ten days from the peace German troops and authorities shall evacuate the region north of the line running from the mouth of the Slien, south of Kappel, Sleswig, and Fredrikstadt along the Eider to the North Sea south of Tønning; the workmen's and soldiers' council shall be dissolved; and the territory administered by an international commission of five, of whom Norway and Sweden shall be invited to name two.<sup>1</sup>

The commission shall insure a free and secret vote in three zones. That between the German-Danish frontier and a line running south of the Island of Alsen, north of Flensburg and south of Tønder to the North Sea north of the Island of Sild, will vote as a unit within three weeks after the evacuation. Within five weeks after this vote the second zone, whose southern boundary runs from the North Sea south of the Island of Fehr to the Baltic south of Sygum, will vote by communes. Two weeks after that vote the third zone, running to the limit of evacuation, will also vote by communes.<sup>2</sup> The international commis-

<sup>1</sup>The French text notes that three of the commissioners shall be "appointed by the principal powers." The English text differs from the American without alteration of sense.

<sup>2</sup>The American Geographical Society's map states that the northern zone will vote 31 days after "signing of the peace treaty;" the central zone after 66 days, and the southern zone after 88 days. The French summary agrees with the American, while the English text omits all these details.

sion<sup>1</sup> will then draw a new frontier on the basis of these plébiscites and with due regard for geographical and economic conditions. Germany will renounce all sovereignty over territories north of this line in favor of the associated Governments, who will hand them over to Denmark.

### *Helgoland*

The fortifications, military establishments and harbors of the islands of Helgoland and Dune are to be destroyed under the supervision of the Allies by German labor, and at Germany's expense. They may not be reconstructed nor any similar fortifications built in the future.

### *Russia*

Germany agrees to respect as permanent and inalienable the independence of all territories which were part of the former Russian Empire, to accept the abrogation of the Brest-Litovsk and other treaties entered into with the Maximalist government of Russia, to recognize the full force of all treaties entered into by the allied and associated powers with states which were a part of the former Russian Empire, and to recognize the frontiers as determined therein. The allied and associated powers formally reserve the right of Russia to obtain restitution and reparation on the principles of the present treaty.<sup>2</sup>

## SECTION IV

### EXTRA-EUROPEAN CLAUSES

#### *German Rights Outside of Europe*

Outside Europe Germany renounces all rights, titles and privileges as to her own or her allies' territories to all the allied and associated powers,<sup>3</sup> and undertakes to accept whatever measures are taken by the principal allied powers in relation thereto.

<sup>1</sup>The French text makes this separate commission of seven members, "of whom five are appointed by the principal powers, one by Denmark and one by Germany."

<sup>2</sup>The English text differs materially in wording, but not in sense.

<sup>3</sup>The French text reads: "the principal allied and associated powers or other belligerent powers."

*Colonies and Overseas Possessions*

Germany renounces in favor of the allied and associated powers<sup>1</sup> her overseas possessions with all rights and titles therein. All movable and immovable property belonging to the German Empire or to any German state shall pass to the Government exercising authority therein. These Governments may make whatever provisions seem suitable for the repatriation of German nationals and as to the conditions on which German subjects of European origin shall reside, hold property or carry on business. Germany undertakes to pay reparation for damage suffered by French nationals in the Kamerun or the frontier zone through the acts of German civil and military authorities and of individual Germans from January 1, 1900, to August 1, 1914. Germany renounces all rights under the conventions of November 4, 1911, and September 28, 1912, and undertakes to pay France in accordance with an estimate presented and approved by the reparation commission all deposits, credits, advances, etc., thereby secured. Germany undertakes to accept and observe any provisions by the allied and associated powers as to the trade in arms and spirits in Africa, as well as to the general act of Berlin of 1885, and the general act of Brussels of 1890. Diplomatic protection to inhabitants of former German colonies is to be given by the Governments exercising authority.

*China*

Germany renounces in favor of China all privileges and indemnities resulting from the Boxer protocol of 1901, and all buildings, wharves, barracks, forts, munitions of war, ships, wireless plants and other public property except diplomatic or consular establishments in the German concessions of Tientsin and Hankow and in other Chinese territory except Kiaochow,<sup>2</sup> and agrees to return to China at her own expense all the astronomical instruments seized in 1900 and 1901. China will, however, take no measures for disposal of German property in the legation quarter at Peking without the consent of the powers signatory to the Boxer protocol.

<sup>1</sup>The French text reads: "the principal powers."

<sup>2</sup>Kiaochow is not excepted in the French text.



Germany accepts the abrogation of the concessions at Hankow and Tientsin, China agreeing to open them to international use. Germany renounces all claims against China or any allied and associated Government for the internment or repatriation of her citizens in China and for the seizure or liquidation of German interests there since August 14, 1917. She renounces in favor of Great Britain her state property in the British concession at Canton and in favor of France and China jointly the property of the German school in the French concession at Shanghai.<sup>1</sup>

### *Siam*

Germany recognizes that all agreements between herself and Siam, including the right of extra-territoriality, ceased July 22, 1917. All German public property except consular and diplomatic premises passes without compensation to Siam, German private property to be dealt with in accordance with the economic clauses. Germany waives all claims against Siam for the seizure and condemnation of her ships, liquidation of her property or internment of her nationals.

### *Liberia*

Germany renounces all rights under the international arrangements of 1911 and 1912 regarding Liberia, more particularly the right to nominate a receiver of the customs, and disinterests herself in any further negotiations for the rehabilitation of Liberia. She regards as abrogated all commercial treaties and agreements between herself and Liberia, and recognizes Liberia's right to determine the status and condition of the re-establishment of Germans in Liberia.

### *Morocco*

Germany renounces all her rights, titles and privileges under the act of Algeciras and the Franco-German agreements of 1909 and 1911 and under all treaties and arrangements with the Sherifian Empire. She undertakes not to intervene in any negotiations as to Morocco between France and other powers, accepts all the consequences of the French protectorate and renounces the

<sup>1</sup>The French text does not specify the beneficiaries of the German renunciations.

capitulations.<sup>1</sup> The Sherifian Government shall have complete liberty of action in regard to German nationals, and all German protected persons shall be subject to the common law. All movable and immovable German property, including mining rights, may be sold at public auction, the proceeds to be paid to the Sherifian Government and deducted from the reparation account. Germany is also required to relinquish her interests in the state bank of Morocco. All Moroccan goods entering Germany shall have the same privilege as French goods.

### *Egypt*

Germany recognizes the British protectorate over Egypt declared on December 18, 1914, and renounces as from August 4, 1914, the capitulations and all the treaties, agreements, etc., concluded by her with Egypt. She undertakes not to intervene in any negotiations about Egypt between Great Britain and other powers. There are provisions for jurisdiction over German nationals and property, and for German consent to any changes which may be made in relation to the Commission of Public Debt.<sup>2</sup> Germany consents to the transfer to Great Britain of the powers given to the late Sultan of Turkey for securing the free navigation of the Suez Canal. Arrangements for property belonging to German nationals in Egypt are made similar to those in the case of Morocco and other countries. Anglo-Egyptian goods entering Germany shall enjoy the same treatment as British goods.

### *Turkey and Bulgaria*

Germany accepts all arrangements which the allied and associated powers make with Turkey and Bulgaria with reference to any rights, privileges or interests claimed in those countries by Germany or her nationals, and not dealt with elsewhere.

### *Shantung*

Germany cedes to Japan all rights, titles and privileges, notably as to Kiaochow, and the railroads, mines and cables acquired by

<sup>1</sup>The French text specifies that Germany's disinteresting herself in Morocco runs from August 3, 1914.

<sup>2</sup>The French text specifies: "Germany consents to the abrogation or modification of the decree of November 28, 1904."

her treaty with China of March 6, 1898, and other agreements as to Shantung. All German rights to the railroad from Tsingtao to Tsinanfu, including all facilities and mining rights and rights of exploitation, pass equally to Japan, and the cables from Tsingtao to Shanghai and Chefu, the cables free of all charges. All German state property, movable and immovable, in Kiaochow is acquired by Japan free of all charges.

## SECTION V

### MILITARY, NAVAL AND AIR FORCES

In order to render possible the initiation of a general limitation of the armaments of all nations, Germany undertakes directly to observe the military, naval and air clauses which follow:

#### *Military Forces*

The demobilization of the German army must take place within two months of the peace. Its strength may not exceed 100,000, including 4,000 officers, with not over seven divisions of infantry and three of cavalry, and to be devoted exclusively to maintenance of internal order and control of frontiers. The divisions may not be grouped under more than two army corps headquarters staffs.<sup>1</sup> The German Great General Staff is abolished. The army administrative service, consisting of civilian personnel not included in the number of effectives, is reduced to one-tenth the total in the 1913 budget. Employees of the German states, such as customs officers, forest guards and coast guards, may not exceed the number in 1913. Gendarmes and local police may be increased only in accordance with the growth of population. None of these may be assembled for military training.

[Recruiting regulations on a voluntary basis are to be incorporated into the German military laws. No reserve of officers with war service will be permitted. The High Command is to confine itself to administrative duties.<sup>2</sup>]

#### *Armaments*

All establishments for the manufacturing, preparation, storage or design of arms and munitions of war, except those specifically

<sup>1</sup>"Of a composition likewise fixed" adds the French text.

<sup>2</sup>The paragraph contains additions from the English text, which differs generally in language.

excepted, must be closed within three months of the peace and their personnel dismissed. The exact amount of armament and munitions allowed Germany is laid down in detail tables, all in excess to be surrendered or rendered useless. The manufacture or importation of asphyxiating, poisonous or other gases and all analogous liquids is forbidden, as well as the importation of arms, munitions and war materials. Germany may not manufacture such materials for foreign governments.

[No reserves of munitions may be formed. No tanks nor armored cars shall be manufactured or imported. The Germans are obliged to notify to the principal Allies for approval the names and situation of all factories manufacturing munitions, together with particulars of their output. The German government arsenals are to be suppressed and their personnel dismissed. Munitions for use in fortified works will be limited to 1,500 rounds apiece for guns of 10.5 cm. caliber and under, and 500 rounds for guns of a higher caliber. Germany is prohibited from importing armaments and munitions.<sup>1]</sup>

### *Conscription*

Conscription is abolished in Germany. The enlisted personnel must be maintained by voluntary enlistments for terms of twelve consecutive years, the number of discharges before the expiration of that term not in any year to exceed five per cent of the total effectives. Officers remaining in the service must agree to serve to the age of 45 years, and newly appointed officers must agree to serve actively for 25 years.

No military schools except those absolutely indispensable for the units allowed shall exist in Germany two months after the peace.<sup>2</sup> No associations such as societies of discharged soldiers, shooting or touring clubs, educational establishments or universities may occupy themselves with military matters. All measures of mobilization are forbidden.

[In the area 50 kilometers east of the Rhine no armed forces either permanent or temporary may be maintained. No military maneuvers may be held nor any permanent works kept for the purposes of helping mobilization.<sup>3]</sup>

<sup>1</sup>Details in this paragraph are taken from the English text.

<sup>2</sup>The number of students "is proportioned to the vacancies to be filled," according to the English and French texts.

<sup>3</sup>Details in this paragraph are taken from the English text.

*Fortresses*

All fortified works, fortresses and field works situated in German territory within a zone 50 kilometers east of the Rhine will be dismantled within three months. The construction of any new fortifications there is forbidden. The fortified works on the southern and eastern frontiers, however, may remain.

*Control*

Interallied commissions of control will see to the execution of the provisions for which a time limit is set, the maximum named being three months. They may establish headquarters at the German seat of government and go to any part of Germany desired. Germany must give them complete facilities, pay their expenses, and also the expenses of execution of the treaty, including the labor and material necessary in demolition and destruction of surrendered war equipment.

*Naval*

The German navy must be demobilized within a period of two months after the peace. She will be allowed six small battleships, six light cruisers, twelve destroyers, twelve torpedo boats and no submarines, either military or commercial, with a personnel of 15,000 men, including officers,<sup>1</sup> and no reserve force of any character. Conscription is abolished, only voluntary service being permitted, with a minimum period of 25 years' service for officers and 12 for men. No member of the German mercantile marine will be permitted any naval training.

All German vessels of war in foreign ports, and the German High Sea Fleet interned at Scapa Flow will be surrendered, the final disposition of these ships to be decided upon by the allied and associated powers. Germany must surrender 42 modern destroyers, 50 modern torpedo boats, and all submarines, with their salvage vessels. All war vessels under construction, including submarines, must be broken up.<sup>2</sup> War vessels not otherwise provided

<sup>1</sup>The English text specifies: "including a maximum of 1,500 officers and warrant officers."

<sup>2</sup>The surrender within one month and the breaking up within three, according to the English text. Surrenders are to the principal allied and associated powers, according to the French version.



for are to be placed in reserve or used for commercial purposes. Replacement of ships, except those lost, can take place only at the end of 20 years for battleships and 15 years for destroyers. The largest armored ship Germany will be permitted will be of 10,000 tons.

[Material arising from the breaking up of German warships may not be used except for industrial purposes, and may not be sold to foreign countries. Except under specified conditions for replacement, Germany is forbidden to construct or acquire any warships, and the construction or acquisition of any submarines whatever is prohibited. Vessels of war are only to have a fixed allowance of arms, munitions and war material. All excess of arms, munitions and war material is to be surrendered, and no stocks or reserves are allowed.<sup>1</sup>]

Germany is required to sweep up the mines in the North Sea and the Baltic Sea, as decided upon by the Allies. All German fortifications in the Baltic defending the passages through the Belts must be demolished. Other coast defenses are permitted, but the number and caliber of the guns must not be increased.<sup>2</sup>

During a period of three months after the peace, the German high power wireless stations at Nauen, Hanover and Berlin will not be permitted to send any messages except for commercial purposes and under supervision of the allied and associated governments, nor may any more be constructed.

Germany renounces all title to specified cables, the value of such as were privately owned being credited to her against reparation indebtedness. Germany will be allowed to repair German submarine cables which have been cut, but are not being utilized by the allied powers, and also portions of cables which, after having been cut, have been removed, or are at any rate not being utilized by any one of the allied and associated powers. In such cases the cables, or portions of cables, removed or utilized remain the property of the allied and associated powers, and accordingly 14 cables,

<sup>1</sup>Details in this paragraph are taken from the English text.

<sup>2</sup>"Other fortified works within 50 kilometers of the German coast or on German islands are to remain, as being of a defensive nature, but no new fortifications may be constructed. The maximum stocks of ammunition allowed for such defenses are 1,500 rounds per piece for 4.1-inch guns and under, and 500 rounds per piece for guns exceeding that caliber." (English text.)

or parts of cables, are specified which will not be restored to Germany.<sup>1</sup>

### *Air*

The armed forces of Germany must not include any military or naval air forces, except for not over 100 unarmed seaplanes to be retained till October 1 to search for submarine mines. No dirigibles shall be kept. The entire air personnel is to be demobilized within two months except for 1,000 officers and men retained till October. No aviation grounds or dirigible sheds are to be allowed within 150 kilometers of the Rhine or the eastern or southern frontiers, existing installations within these limits to be destroyed. The manufacture of aircraft and parts of aircraft is forbidden for six months.<sup>2</sup> All military and naval aeronautical material under a most exhaustive definition must be surrendered within three months, except for the 100 seaplanes already specified.

## SECTION VI

### PRISONERS OF WAR AND SOLDIERS' GRAVES

The repatriation of German prisoners and interned civilians is to be carried out without delay and at Germany's expense by a commission composed of representatives of the Allies and Germany.<sup>3</sup> Those under sentence for offenses against discipline<sup>4</sup> are to be repatriated without regard to the completion of their sentence. Until Germany has surrendered persons guilty of offenses against the laws and customs of war, the Allies have the right to retain selected German officers. The Allies may deal at their own discretion with German nationals who do not desire to be repatriated, all repatriation being conditional on the immediate release of any allied subjects still in Germany. Germany is to accord facilities to

<sup>1</sup>The cables affected are: Emden-Vigo; Emden-Brest; Emden-Teneriffe; Emden-Azores (two cables); Azores-New York (two cables); Teneriffe-Monrovia; Monrovia-Pernambuco; Lome-Duala; Constantinople-Constanza; Chifu-Tsingtao-Shanghai; Yap-Shanghai; Yap-Guam; Yap-Menado (Celebes).

<sup>2</sup>"Until the definitive treaty of peace, the manufacture and importation of aircraft and parts of aircraft is forbidden in Germany," according to the French version.

<sup>3</sup>The French version specifies: "the details of execution being regulated by sub-commissions for each of the allied and associated powers."

<sup>4</sup>The provision relates to such offenses committed before May 1, 1919, only.

commissions of inquiry in collecting information in regard to missing prisoners of war and in imposing penalties on German officials who have concealed allied nationals. Germany is to restore all property belonging to allied prisoners. There is to be a reciprocal exchange of information as to dead prisoners and their graves.

### *Graves*

Both parties will respect and maintain the graves of soldiers and sailors buried on their territories, and agree to recognize and assist any commission charged by any allied or associated Government with identifying, registering, maintaining or erecting suitable monuments over the graves, and to afford to each other all facilities for the repatriation of the remains of their soldiers.<sup>1</sup>

## SECTION VII

### RESPONSIBILITY

“The allied and associated powers publicly arraign William II of Hohenzollern, formerly German emperor, for a supreme offense against international morality and the sanctity of treaties.”

The ex-emperor's surrender is to be requested of Holland and a special tribunal set up, composed of one judge from each of the five great powers, with full guaranties of the right of defense. It is to be guided “by the highest motives of international policy, with a view of vindicating the solemn obligations of international undertakings and the validity of international morality,” and will fix the punishment it feels should be imposed.

Persons accused of having committed acts in violation of the laws and customs of war are to be tried and punished by military tribunals under military law. If the charges affect nationals of only one state they will be tried before a tribunal of that state; if they affect nationals of several states, they will be tried before joint tribunals of the states concerned. Germany shall hand over to the associated Governments, either jointly or severally, all per-

<sup>1</sup>A series of agreements respecting military graves will doubtless be made. An agreement between the United Kingdom and France respecting British war graves in France was signed at Paris, November 26, 1918. It recognizes the British Imperial War Graves Commission “as a properly constituted association to insure” the upkeep of British cemeteries and military graves. (Treaty Series, 1919, No. 1; Cmd. 7).

sons so accused and all documents and information necessary to insure full knowledge of the incriminating acts, the discovery of the offenders, and the just appreciation of the responsibility. The accused will be entitled to name counsel.

## SECTION VIII

### REPARATION AND RESTITUTION<sup>1</sup>

The allied and associated Governments affirm, and Germany accepts, the responsibility of herself and her allies, for causing all the loss and damage to which the allied and associated Governments and their nationals have been subjected as a consequence of the war imposed upon them by the aggression of Germany and her allies.

Germany further binds herself to repay all sums borrowed by Belgium from the Allies as a result of Germany's violation of the treaty of 1839, up to November 11, 1918, and for this purpose will issue at once and hand over to the reparation commission 5 per cent gold bonds falling due in 1926.

While the allied and associated Governments recognize that the resources of Germany are not adequate, after taking into account permanent diminution of such resources resulting from the treaty, they require her to make compensation for all damages caused to civilians under seven main categories:

(a) Damages by personal injury to civilians caused by acts of war, directly or indirectly.

(b) Damages caused to civilians, including exposure to the sea, resulting from acts of cruelty ordered by the enemy, and to civilians in the occupied territory.

(c) Damages caused by maltreatment of prisoners.

(d) Damages to the allied peoples represented by pensions and separation allowances, capitalized at the signature of this treaty.

(e) Damages to property other than naval or military materials.

(f) Damages to civilians by being forced to labor.

(g) Damages in the form of levies or fines imposed by the enemy.

<sup>1</sup>The paragraphs of this section have been rearranged for reasons of clarity in accordance with the French version.



The total obligation of Germany to pay, as defined in the category of damages, is to be determined and notified to her after a fair hearing and not later than May 1, 1921, by an interallied reparation commission. At the same time a schedule of payments to discharge the obligation within 30 years shall be presented. These payments are subject to postponement in certain contingencies. Germany irrevocably recognizes the full authority of this commission, agrees to supply it with the necessary information and to pass legislation to effectuate its findings. She further agrees to restore to the Allies cash and certain articles which can be identified.

The commission shall consist of one representative each of the United States, British Empire, France, Italy and Belgium, and in certain cases of Japan and Serbia, with all other allied powers entitled, when their claims are under consideration, to the right of representation without voting power. It shall permit Germany to give evidence regarding her capacity to pay and shall assure her a just opportunity to be heard. It shall make its headquarters at Paris; establish its own procedure and personnel; have general control of the whole reparation problem and become the exclusive agency of the Allies for receiving, holding, selling and distributing reparation payments. Majority vote shall prevail except that unanimity is required on questions involving the sovereignty of any of the Allies, the cancelation of all or part of Germany's obligations, the time and manner of selling, distributing, and negotiating bonds issued by Germany, any postponement between 1921 and 1926 of annual payments beyond 1930, and any postponement after 1926 for a period of more than three years, the application of a different method of measuring damage than in a similar former case, and the interpretation of provisions. Withdrawal from representation is permitted on twelve months' notice.

"In periodically estimating Germany's capacity to pay, the reparation commission shall examine the German system of taxation; first, to the end that the sums for reparation which Germany is required to pay shall become a charge upon all her revenues, prior to that for the service or discharge of any domestic loan, and, secondly, so as to satisfy itself that, in general, the German scheme of taxation is fully as heavy proportionately as that of any of the powers represented on the commission.



"The measures which the allied and associated powers shall have the right to take, in case of voluntary default by Germany, and which Germany agrees not to regard as acts of war, may include economic and financial prohibitions and reprisals and in general such other measures as the respective Governments may determine to be necessary in the circumstances."

As an immediate step toward restoration, Germany shall pay within two years 20,000,000,000 marks in either gold, goods, ships, or other specific forms of payment, with the understanding that certain expenses, such as those of the armies of occupation and payments for food and raw materials may be deducted at the discretion of the Allies.

The commission may require Germany to give from time to time, by way of guaranty, issues of bonds or other obligations to cover such claims as are not otherwise satisfied. In this connection and on account of the total amount of claims, bond issues are presently to be required of Germany in acknowledgement of its debt as follows: 20,000,000,000 marks gold, payable not later than May 1, 1921, without interest; 40,000,000,000 marks gold bearing  $2\frac{1}{2}$  per cent interest between 1921 and 1926 and thereafter 5 per cent, with a 1 per cent sinking fund, payment beginning in 1926, and an undertaking to deliver 40,000,000,000 marks gold bonds bearing interest at 5 per cent, under terms to be fixed by the commission.

Interest on Germany's debt will be 5 per cent unless otherwise determined by the commission in the future, and payments that are not made in gold may "be accepted by the commission in the form of properties, commodities, businesses, rights, concessions, etc." Certificates of beneficial interest, representing either bonds or goods delivered by Germany may be issued by the commission to the interested power. <sup>1</sup>As bonds are distributed and pass from the control of the commission, an amount of Germany's debt equivalent to their par value is to be considered as liquidated.

<sup>1</sup>To this sentence in the Second Print is added the clause: "no power being entitled, however, to have its certificates divided into more than five pieces." This clause also appeared in the First Print of the Department of State and in the first publication of the English text. In the case of the latter a correction was sent out eliding it. On that account, and because it does not appear in the French version, it is omitted from the present text.

### *Shipping*

The German government recognizes the right of the Allies to the replacement, ton for ton, and class for class of all merchant ships and fishing boats lost or damaged owing to the war, and agrees to cede to the Allies all German merchant ships of 1,600 tons gross and upward; one-half of her ships between 1,600 and 1,000 tons gross and one-quarter of her steam trawlers and other fishing boats. These ships are to be delivered within two months to the reparation commission, together with documents of title evidencing the transfer of the ships free from encumbrance.

"As an additional part of reparation," the German government further agrees to build merchant ships for the account of the Allies to the amount of not exceeding 200,000 tons gross annually during the next five years.

All ships used for inland navigation taken by Germany from the Allies are to be restored within two months, the amount of loss not covered by such restitution to be made up by the cession of the German river fleet up to 20 per cent thereof.

### *Devastated Areas*

Germany undertakes to devote her economic resources directly to the physical restoration of the invaded areas. The reparation commission is authorized to require Germany to replace the destroyed articles by the delivery of animals, machinery, etc., existing in Germany, and to manufacture materials required for reconstruction purposes; all with due consideration for Germany's essential domestic requirements.

### *Coal, Etc.*

Germany is to deliver annually for ten years to France coal equivalent to the difference between the annual prewar output of Nord and Pas de Calais mines and annual production during above ten-year period.<sup>1</sup> Germany further gives options over ten years for delivery of 7,000,000 tons of coal per year to France in addition to the above, of 8,000,000 tons to Belgium, and of an

<sup>1</sup>The quantity of coal contemplated will decrease from 20,000,000 to 8,000,000 tons a year during the ten-year period, according to the French version. Coal delivered to replace that of destroyed mines shall have priority.

amount rising from 4,500,000 tons in 1919 to 1920 to 8,500,000 tons in 1923 to 1924 to Italy at prices to be fixed, as prescribed in the treaty. Coke may be taken in place of coal in the ratio of three tons to four. Provision is also made for delivery to France over three years of benzol, coal tar and of ammonia. The commission has powers to postpone or annul the above deliveries should they interfere unduly with the industrial requirements of Germany.

### *Dyestuffs and Chemical Drugs*

[In order to effect payment by deliveries in kind, Germany is required, for a limited number of years, varying in the case of each, to deliver coal, coal-tar products, dyestuffs and chemical drugs, in specific amounts to the reparation commission. The commission may so modify the conditions of delivery as not to interfere unduly with Germany's industrial requirements. The deliveries of coal are to be based largely upon the principle of making good diminutions in the production of the allied countries resulting from the war.<sup>1</sup>]

Germany accords option to the commission on dyestuffs and chemical drugs, including quinine up to 50 per cent of total stock in Germany at the time the treaty comes into force, and similar option during each six months to the end of 1924 up to 25 per cent of previous six months' output.

### *Special Provisions*

As reparation for the destruction of the Library of Louvain, Germany is to hand over manuscripts, early printed books, prints, etc., to the equivalent of those destroyed.

In addition to the above, Germany is to hand over to Belgium wings now at Berlin belonging to the altar piece of the "Adoration of the Lamb" by Hubert and Jan Van Eyck, the center of which is now in the Church of Saint Bavo at Ghent, and the wings now at Berlin and Munich of the altar piece of "The Last Supper" by Dirk Bouts, the center of which belongs to the Church of St. Peter at Louvain.

<sup>1</sup>Paragraph taken from the English text.

Germany is to restore within six months the Koran of the Caliph Othman, formerly at Medina, to the King of the Hedjaz,<sup>1</sup> and the skull of the Sultan Okwawa, formerly in German East Africa, to his Britannic Majesty's Government.<sup>2</sup>

The German government is also to restore to the French Government certain papers taken by the German authorities in 1870, belonging then to M. [Eugène] Rouher,<sup>3</sup> and to restore the French flags taken during the war of 1870 and 1871.

## SECTION IX

### FINANCE

The powers to which German territory is ceded will assume a certain portion of the German prewar debt, the amount to be fixed by the reparation commission on the basis of the ratio between the revenues of the ceded territory and German total revenues for the three years preceding the war. In view, however, of the special circumstances under which Alsace-Lorraine was separated from France in 1871, when Germany refused to accept any part of the French public debt, France will not assume any part of Germany's prewar debt there; nor will Poland share in certain German debts incurred for the oppression of Poland. If the value of the German public property in ceded territory exceeds the amount of debt assumed, the states to which the property is ceded will give credit on reparation for the excess, with the exception of Alsace-Lorraine. Mandatory powers will not assume any German debts or give any credit for German government property.

<sup>1</sup>The Koran was originally made up of scattered fragments collected about a year after the Prophet's death in A. D. 632. This was the standard text in the caliphates of Abu Bekr and Omar. Their successor, Othman ibn Affan, found the existing texts unsatisfactory and summoned Zaid ibn Thâbit, who had been Mohammed's secretary, to establish a text which should be the sole standard. The original of the resulting text was deposited at Medina, and is referred to in the treaty.

<sup>2</sup>Sultan Okwawa, or M'kwawa, was chief of the Wahihis, German East Africa. This tribe under several sultans from 1870-1898 gathered to itself much native support and was continuously hostile to the Germans. Okwawa, the last of the warrior line, added a religious superstition to his prestige by preaching that he could not be captured. He committed suicide when capture was inevitable, the Germans securing possession of the body and subsequently using the skull as the symbol of their rightful succession to the chieftaincy of the tribe.

<sup>3</sup>Rouher was a minister of state under Napoleon III. At the outbreak of the war of 1870 he transferred Napoleon's confidential papers from the palaces of the



Germany renounces all right of representation on, or control of, state banks, commissions, or other similar international financial and economic organizations.

Germany is required to pay the total cost of the armies of occupation from the date of the armistice as long as they are maintained in German territory, this cost to be a first charge on her resources. The cost of reparation is the next charge, after making such provision for payments for imports as the Allies may deem necessary.

Germany is to deliver to the allied and associated powers all sums deposited in Germany by Turkey and Austria-Hungary in connection with the financial support extended by her to them during the war, and to transfer to the Allies all claims against Austria-Hungary, Bulgaria or Turkey in connection with agreements made during the war. Germany confirms the renunciation of the treaties of Bukharest and Brest-Litovsk.

On the request of the reparation commission, Germany will expropriate any rights or interests of her nationals in public utilities in ceded territories or those administered by mandatories, and in Turkey, China, Russia, Austria-Hungary and Bulgaria, and transfer them to the reparation commission, which will credit her with their value. Germany guarantees to repay to Brazil the fund arising from the sale of São Paulo coffee which she refused to allow Brazil to withdraw from Germany.<sup>1</sup>

## SECTION X

### ECONOMIC CLAUSES

#### *Customs*

For a period of six months Germany shall impose no tariff duties higher than the lowest in force in 1914, and for certain

Tuileries and St. Cloud, as well as important documents from the ministry of foreign affairs, to his chateau at Cerçay for safety. On October 10, 1870, a regiment of German cavalry took possession of the chateau. A lieutenant came upon soldiers breaking up the boxes containing these papers and halted them, the regimental commander forwarding all the material to Bismarck at Paris. Among the papers was extensive correspondence between Napoleon III and the rulers of Bavaria, Wurtemberg, Hesse and other German states, who were opposed to Prussian hegemony and antagonistic to the organization of the German Empire as eventually organized. Bismarck's frequent and successive threats to publish the correspondence, which was apparently of such a nature as to induce revolution in those states, broke down their opposition to entering the empire.

<sup>1</sup>The value of the coffee is \$35,000,000.



agricultural products, wines, vegetable oils, artificial silk and washed or scoured wool this restriction obtains for two and a half years more. For five years, unless further extended by the League of Nations, Germany must give most-favored-nation treatment to the allied and associated powers. She shall impose no customs tariff for five years on goods originating in Alsace-Lorraine and for three years on goods originating in former German territory ceded to Poland, with the right of observation of a similar exception for Luxemburg.

[*English text:* The treaty contains detailed provisions for securing that Germany shall not discriminate, directly or indirectly, against the trade of allied and associated countries. These provisions will remain in force for five years, unless extended by the Council of the League of Nations. Temporary provision is made for the free entrance into Germany, up to a limited amount, of products of Alsace-Lorraine, Luxemburg and German territory ceded to Poland. The German import tariff applicable at the outset to allied goods will not exceed the lowest rates of 1914. After six months Germany will be free to raise her tariff, so long as it is impartially applied to all the Allies, except as regards a few specified articles, mainly agricultural products, with regard to which the restriction will extend for a further period of two and a half years. Power is reserved in case of necessity to impose a special customs régime in the occupied areas.]

### *Shipping*

Ships of the allied and associated powers shall for five years, and thereafter under condition of reciprocity, unless the League of Nations otherwise decides, enjoy the same rights in German ports as German vessels and have most-favored-nation treatment in fishing, coasting trade and towage even in territorial waters. Ships of a country having no seacoast may be registered at some one place within its territory.<sup>1</sup>

### *Unfair Competition*

Germany undertakes to give the trade of the allied and associated powers adequate safeguards against unfair competition,

<sup>1</sup>English text reads: "Provision is made for the recognition by Germany of ships' certificates, and of the places of registry of ships belonging to states without a seaboard."

and in particular to suppress the use of false wrappings and markings<sup>1</sup> and, on condition of reciprocity, to respect the laws and judicial decisions of allied and associated states in respect of regional appellations of wines and spirits.

### *Treatment of Nationals*

Germany shall impose no exceptional taxes or restrictions upon the nationals of allied and associated states for a period of five years, and, unless the League of Nations acts, for an additional five years. German nationality shall not continue to attach to a person who has become a national of an allied or associated state.

[*English text:* Germany is not to impose on the nationals of the allied states or their property any restrictions which were not in force before the war or any taxes, unless those restrictions and taxes are applied to her own nationals. She is also prevented from imposing restrictions in regard to the exercise of occupations which are not applicable to all foreigners. These provisions are to be in force for a period of five years, and, if a majority of the Council of the League of Nations so decides, for an additional period not exceeding five years. German nationality shall not continue to attach to a person who has become a national of an allied or associated state.]

### *Multilateral Conventions*

Some 40 multilateral conventions are renewed between Germany and the allied and associated powers, but special conditions are attached to Germany's readmission to several. As to postal and telegraphic conventions, Germany must not refuse to make reciprocal agreements with the new states.<sup>2</sup> She must agree as respects the radio-telegraphic convention to provisional rules<sup>3</sup> to be communicated to her, and adhere to the new convention when formulated. In the North Sea fisheries and North Sea liquor traffic conventions rights of inspection and police over associated fishing boats shall be exercised for at least five years only by

<sup>1</sup>The English text reads: "false markings and indications of origin."

<sup>2</sup>The English text reads: "For example, as to postal and telegraphic conventions, Germany must not refuse her consent to special arrangements concluded by the new states."

<sup>3</sup>The English text reads: "to fulfill the provisional rules."

vessels of these powers. As to the international railway union she shall adhere to the new convention when formulated.

China as to the Chinese customs tariff arrangement, the arrangement of 1905 regarding Whangpu and the Boxer indemnity of 1901; France, Portugal and Rumania as to the Hague convention of 1904 relating to civil procedure; and Great Britain and the United States as to Article 3 of the Samoan treaty of 1899 are relieved of all obligations toward Germany.

### *Bilateral Treaties*

Each allied and associated state may renew any treaty with Germany, in so far as consistent with the peace treaty, by giving notice within six months. Treaties entered into by Germany since August 1, 1914, with other enemy states and before or since that date with Rumania, Russia and governments representing parts of Russia, are abrogated, and concessions granted under pressure by Russia to German subjects are annulled. The allied and associated states are to enjoy most-favored-nation treatment<sup>1</sup> under treaties entered into by Germany and other enemy states before August 1, 1914, and under treaties entered into by Germany and neutral states during the war.

### *Prewar Debts*

A system of clearing houses is to be created within three months, one in Germany and one in each allied and associated state which adopts the plan, for the payment of prewar debts, including those arising from contracts suspended by the war. For the adjustment of the proceeds of the liquidation of enemy property and the settlement of other obligations. Each participating state assumes responsibility for the payment of all debts owing by its nationals to the nationals of the enemy states, except in cases of prewar insolvency of the debtor. The proceeds of the sale of private enemy property in each participating state may be used to pay the debts owed to the nationals of that state, direct payment from debtor to creditor and all communications relating thereto being prohibited. Disputes may be settled by arbitration by the courts<sup>2</sup>

<sup>1</sup>The English text reads simply: "enjoy the privileges conferred under treaties."

<sup>2</sup>The English text does not specify courts. The French version assigns the initial attempt at conciliation to the clearing houses. The jurisdiction of the tribunal, however, is for all prewar contracts beyond the competence of national courts of the allied and associated powers or of neutrals.

of the debtor country or by the mixed arbitral tribunal. Any allied or associated power, may, however, decline to participate in this system by giving Germany six months' notice.

[Debts are to be paid in the currency of the allied country concerned, and the rate of exchange to be adopted, failing specific provision in the contract, is to be the average cable transfer rate prevailing in that country during the month immediately preceding the outbreak of war between the country in question and Germany.<sup>1</sup>]

### *Enemy Property*

Germany shall restore or pay for all private enemy property seized or damaged by her, the amount of damages to be fixed by the mixed arbitral tribunal. The allied and associated states may liquidate German private property within their territories as compensation for property of their nationals not restored or paid for by Germany, for debts owed to their nationals by German nationals and for other claims against Germany. Germany is to compensate its nationals for such losses and to deliver within six months all documents relating to property held by its nationals in allied and associated states. All war legislation as to enemy property rights and interests is confirmed, and all claims by Germany against the allied or associated Governments for acts under exceptional war measures are abandoned.

[*English text:* The action of liquidation, control, etc., taken in the allied countries and in Germany in regard to enemy property and businesses under exceptional war measures is confirmed, subject to compensation in respect of loss to the property, etc., of allied nationals, to be determined by the mixed arbitral tribunal and charged upon the property of German nationals which is under the control of the claimant's state. Any compensation due to her own nationals is to be paid by Germany. All action of liquidation, control, etc., in Germany is to be stayed, and the allied property, if not completely liquidated, is to be restored. Nationals of countries which did not make any general liquidation of German property may require the restoration, if possible of their actual property by the German Government, in whosever hands it may now be. Stipulations are included for the protection of

<sup>1</sup>Paragraph added from the English text.



returned property and businesses in Germany in the future. The Allies reserve the right to retain and liquidate all German property within their territory. The net proceeds of sales of such property, both during and after the war, are to be credited to Germany, and to be applied by each state to the satisfaction of claims by its nationals with regard to their property in Germany or debts owing to them by Germans.]

Prewar contracts between allied and associated nationals, excepting the United States, Japan and Brazil,<sup>1</sup> and German nationals are canceled, except for debts for agreements already performed, for the transfer of property where the property had already passed, leases of land and houses, contracts of mortgages, pledge or lien, mining concessions, contracts with governments and insurance contracts. Mixed arbitral tribunals shall be established of three members, one chosen by Germany, one by the associated states and the third by agreement, or, failing which, by the President of Switzerland. They shall have jurisdiction over all disputes as to contracts concluded before the present peace treaty.<sup>2</sup>

### *Contracts*

[Powers are reserved for the maintenance of contracts, the execution of which is regarded by an allied state as in the general interest, subject, if necessary, to the payment of equitable compensation to be fixed by the mixed arbitral tribunal.<sup>3</sup>]

Fire insurance contracts are not considered dissolved by the war even if premiums have not been paid, but lapse at the date of the first annual premium falling due three months after the peace. Life insurance contracts may be restored by payments of accumulated premiums with interest, sums falling due on such contracts during the war to be recoverable with interest. Marine insurance contracts are dissolved by the outbreak of war except where the risk insured against had already been incurred. Where the risk had not attached premiums paid are recoverable; otherwise premiums due and sums due on losses are recoverable. Reinsurance treaties are abrogated unless invasion has made it impossible for

<sup>1</sup>"So far as they do not fall within the jurisdiction of allied or associated or neutral courts," is added in the English text.

<sup>2</sup>By reason of constitutional difficulties.

<sup>3</sup>Paragraph taken from the English text.



the reinsured to find another reinsurer.<sup>1</sup> Any allied or associated power, however, may cancel all the contracts running between its nationals and a German life insurance company, the latter being obligated to hand over the proportion of its assets attributable to such policies.

### *Industrial Property*

Rights as to industrial, literary and artistic property are re-established, the special war measures of the allied and associated powers are ratified; and the right reserved to impose conditions on the use of German patents and copyrights when in the public interest. Except as between the United States and Germany, prewar licenses<sup>2</sup> and rights to sue for infringements committed during the war are canceled.

### *Opium*

The contracting powers agree, whether or not they have signed and ratified the opium convention of January 23, 1912, or signed the special protocol opened at The Hague in accordance with resolutions adopted by the Third Opium Conference in 1914, to bring the said convention into force by enacting within twelve months of the peace necessary legislation.

### *Religious Missions*<sup>3</sup>

The allied and associated powers agree that the properties of religious missions in territories belonging or ceded to them shall continue in their work under the control of the powers, Germany renouncing all claims in their behalf.

## SECTION XI

### AERIAL NAVIGATION

Aircraft of the allied and associated powers shall have full liberty of passage and landing over and in German territory, equal

<sup>1</sup>The English text at this point reads: "Where the same risk was again insured against, after war had begun, the new policy is to be considered as substituted for the old. Where the risk had not attached at outbreak of war, premiums paid are recoverable. The insurance treaties are abrogated unless invasion has made it impossible for the reinsured to find another reinsurer."

<sup>2</sup>Canceled subject to the right of the old licensee to demand a new license on terms to be specially settled.

<sup>3</sup>Part of Section XV, according to the treaty.

treatment with German 'planes as to use of German airdromes, and with most-favored-nation 'planes as to internal commercial traffic in Germany. Germany agrees to accept allied certificates of nationality, airworthiness or competency or licenses and to apply the convention relative to aerial navigation concluded between the allied and associated powers to her own aircraft over her own territory. These rules apply until 1923, unless Germany will have been admitted to the League of Nations or to the above convention.

## SECTION XII

### PORTS, WATERWAYS AND RAILWAYS

#### *Freedom of Transit*

Germany must grant freedom of transit<sup>1</sup> through her territories by rail or water to persons, goods, ships, carriages and mails from or to any of the allied or associated powers, without customs or transit duties, undue delays, restrictions or discriminations based on nationality, means of transport, or place of entry or departure. Goods in transit shall be assured all possible speed of journey, especially perishable goods. Germany may not divert traffic from its normal course in favor of her own transport routes or maintain "control stations" in connection with transmigration traffic. She may not establish any taxes discriminating against the ports of allied or associated powers; must grant the latter's seaports all factors and reduced tariffs granted her own or other nationals, and afford the allied and associated powers equal rights with those of her own nationals in her ports and waterways, save that she is free to open or close her maritime coasting trade.

#### *Free Zones in Ports*

Free zones existing in German ports on August 1, 1914, must be maintained with due facilities as to warehouses, packing and unpacking, without discrimination, and without charges except for expenses of administration and use. Goods leaving the free zones for consumption in Germany and goods brought into the free zones from Germany shall be subject to the ordinary import and export taxes.

<sup>1</sup>The English text adds: "and full national treatment."

*International Rivers*

The Elbe from the junction of the Vltava, the Vltava<sup>1</sup> from Prague, the Oder from the Oppa, the Niemen from Grodno, and the Danube from Ulm are declared international, together with their connections. The riparian states must insure good conditions of navigation within their territories unless a special organization exists therefor. Otherwise, appeal may be had to a special tribunal of the League of Nations, which also may arrange for a general international waterways convention.

The Elbe and the Oder are to be placed under international commissions to meet within three months, that for the Elbe composed of four representatives of Germany, two from Czecho-Slovakia, and one each from Great Britain, France, Italy and Belgium; and that for the Oder composed of one each from Poland, Russia, Czecho-Slovakia, Great Britain, France, Denmark and Sweden. If any riparian state on the Niemen should so request of the League of Nations, a similar commission shall be established there. These commissions shall upon request of any riparian state meet within three months to revise existing international agreements.

*The Danube*

The European Danube Commission reassumes its prewar powers, but for the time being with representatives of only Great Britain, France, Italy and Rumania. The Upper Danube is to be administered by a new international commission until a definitive statute be drawn up at a conference of the powers nominated by the allied and associated governments within one year after the peace. The enemy governments shall make full reparation for all war damages caused to the European Commission; shall cede their river facilities in surrendered territory, and give Czecho-Slovakia, Serbia and Rumania any rights necessary on their shores for carrying out improvements in navigation.

*The Rhine and the Moselle*

The Rhine<sup>2</sup> is placed under the central commission to meet at Strasburg within six months after the peace and to be composed

<sup>1</sup>Vltava is the Czech name of the river appearing on the maps as the Moldau.  
<sup>2</sup>The Moselle is included under the same provisions.

of four representatives of France, which shall in addition select the president, four of Germany, and two each of Great Britain, Italy, Belgium, Switzerland and the Netherlands. Germany must give France on the course of the Rhine included between the two extreme points of her frontiers all rights to take water to feed canals, while herself agreeing not to make canals on the right bank opposite France.<sup>1</sup> She must also hand over to France all her drafts and designs for this part of the river.

Belgium is to be permitted to build a deep draft Rhine-Meuse canal, if she so desires, within 25 years, in which case Germany must construct the part within her territory on plans drawn by Belgium;<sup>2</sup> similarly, the interested allied Governments may construct a Rhine-Danube canal; both, if constructed, to come under the competent international commission. Germany may not object if the Central Rhine Commission desires to extend its jurisdiction over the lower Moselle, the upper Rhine, or lateral canals.

Germany must cede to the allied and associated Governments certain tugs, vessels, and facilities for navigation on all these rivers, the specific details to be established by an arbiter named by the United States. Decision will be based on the legitimate needs of the parties concerned and on the shipping traffic during the five years before the war. The value will be included in the regular reparation account. In the case of the Rhine, shares in the German navigation companies and property, such as wharves and warehouses, held by Germany in Rotterdam at the outbreak of the war must be handed over.

[Germany is to make no objection to the commission extending its jurisdiction if desired to the Lower Moselle (with the consent of the Luxemburg Government), to the Upper Rhine (with the consent of the Swiss Government), and to the lateral canals and waterways which may be constructed to improve navigation.<sup>3</sup>]

<sup>1</sup>The English text at this point reads: "France is to have full rights all along her own frontier to use water from the Rhine for canals, etc., and to carry out works for deriving motive power, subject to certain payments and to the consent of the Commission. Germany is to undertake to make no canals on the right bank opposite the French frontier, and to grant France certain privileges on the right bank for the establishment of certain engineering works, subject to the payment of compensation. Switzerland is also entitled to demand similar rights for the upper part of the river."

<sup>2</sup>The expenses are to be divided among the various states, according to the English text.

<sup>3</sup>Paragraph taken from the English text.

### *Railways*

Germany, in addition to most-favored-nation treatment on her railways, agrees to co-operate in the establishment of through ticket services for passengers and baggage; to insure communication by rail between the allied, associated and other states; to allow the construction or improvement within 25 years of such lines as are necessary; and to conform her rolling stock to enable its incorporation in trains of the allied or associated powers. She also agrees to accept the denunciation of St. Gothard convention if Switzerland and Italy so request, and temporarily to execute instructions as to the transport of troops and supplies and the establishment of postal and telegraphic service, as provided.

[When a new railway convention has replaced the Bern convention of 1890 respecting the transportation of merchandise by rail, it will be binding on Germany; in the meantime she is to follow the Bern convention. Provision is made for the handing over of the installation of lines in transferred territory, and of an equitable proportion of rolling stock for use therein. Commissions are to settle the working of lines linking up two parts of one country and crossing another, or branch lines passing from one country to another. Finally, Germany is to agree to subscribe to any general conventions regarding the international régime of transit, waterways, ports or railways which may be concluded by the Allies (with the approval of the League of Nations) within five years. Differences are to be settled by the League of Nations. Certain specified articles, *e.g.*, those providing for equal treatment in matters of transit and transport, are subject to revision by the League of Nations after five years. Failing revision, they will continue in force in relation to any allied state which grants reciprocal treatment.<sup>1</sup>]

### *Czecho-Slovakia*

To assure Czecho-Slovakia access to the sea, special rights are given her both north and south. Toward the Adriatic, she is permitted to run her own through trains to Fiume and Trieste. To the north, Germany is to lease her for 99 years spaces<sup>2</sup> in Hamburg

<sup>1</sup>Paragraph taken from the English text.

<sup>2</sup>"As free zones," according to the English and French texts.



and Stettin, the details to be worked out by a commission of three representing Czecho-Slovakia, Germany and Great Britain.

### *The Kiel Canal*

The Kiel Canal is to remain free and open to war and merchant ships of all nations at peace with Germany; subjects, goods and ships of all states are to be treated on terms of absolute equality, and no taxes to be imposed beyond those necessary for upkeep and improvement, for which Germany is to be responsible.<sup>1</sup> In case of violation of, or disagreement as to, those provisions, any state may appeal to the League of Nations, and may demand the appointment of an international commission. For preliminary hearing of complaints, Germany shall establish a local authority at Kiel.

## SECTION XIII

### INTERNATIONAL LABOR ORGANIZATION

Members of the League of Nations agree to establish a permanent organization to promote international adjustment of labor conditions, to consist of an annual international labor conference and an international labor office.

The former is composed of four representatives of each state, two from the government and one each from the employers and the employed; each of them may vote individually. It will be a deliberative legislative body, its measures taking the form of draft conventions or recommendations for legislation, which, if passed by two-thirds vote, must be submitted to the law-making authority in every state participating. Each Government may either enact the terms into law, approve the principle, but modify them to local needs, leave the actual legislation in case of a federal state to local legislatures, or reject the convention altogether without further obligation. The international labor office is established at the seat of the League of Nations as part of its organization. It is to collect and distribute information on labor throughout the world and prepare agenda for the conference. It will publish a periodical in French and English, and possibly other languages.

<sup>1</sup>The French version adds: "Loading and unloading, embarkation and debarkation may be effected only in ports designated by Germany."

Each state agrees to make to it for presentation to the conference an annual report of measures taken to execute accepted conventions. The governing body consists of 24 members, twelve representing the Governments, six the employers and six the employees to serve for three years. On complaint that any Government has failed to carry out a convention to which it is a party, the governing body may make inquiries directly to that Government, and, in case the reply is unsatisfactory, may publish the complaint with comment. A complaint by one Government against another may be referred by the governing body to a commission of inquiry nominated by the Secretary-General of the League. If the commission report fails to bring satisfactory action, the matter may be taken to a permanent court of international justice for final decision. The chief reliance for securing enforcement of the law will be publicity, with a possibility of economic action in the background.

The first meeting of the conference will take place in October, 1919, at Washington, to discuss the 8-hour day, or 48-hour week; prevention of unemployment; extension and application of the international conventions adopted at Bern in 1906 prohibiting night work for women and the use of white phosphorus in the manufacture of matches; and employment of women and children at night or in unhealthy work, of women before and after childbirth, including maternity benefit, and of children as regards minimum age.

### *Labor Clauses*

Nine principles of labor conditions are to be recognized, on the ground that "the wellbeing, physical and moral, of the industrial wage-earners is of supreme international importance." With exceptions necessitated by differences of climate, habits and economic development, they include: the guiding principle that labor should not be regarded merely as a commodity or article of commerce; right of association of employers and employees; a wage adequate to maintain a reasonable standard of life; the 8-hour day or 48-hour week; a weekly rest of at least 24 hours, which should include Sunday wherever practicable; abolition of child labor and assurance of the continuation of the education and proper physical development of children; equal pay for equal work as between men and women; equitable treatment of

all workers, including foreigners; and a system of inspection in which women should take part.

## SECTION XIV

### GUARANTIES ASKED OF FOE

#### *Western Europe*

As a guaranty for the execution of the treaty, German territory to the west of the Rhine, together with the bridgeheads, will be occupied by allied and associated troops for 15 years. If the conditions are faithfully carried out by Germany, certain districts, including the bridgehead of Cologne, will be evacuated at the expiration of five years; certain other districts, including the bridgehead of Coblenz, and the territories nearest the Belgian frontier, will be evacuated after ten years, and the remainder, including the bridgehead of Mainz, will be evacuated after 15 years.<sup>1</sup> In case the interallied reparation commission finds that Germany has failed to observe the whole or part of her obligations, either during the occupations or after the 15 years have expired, the whole or part of the areas specified will be reoccupied immediately. If before the expiration of the 15 years Germany complies with all the treaty undertakings, the occupying forces will be withdrawn immediately.

#### *Eastern Europe*

All German troops at present in territories to the east of the new frontier shall return as soon as the allied and associated Governments deem wise. They are to abstain from all requisitions and are in no way to interfere with measures for national defense taken by the Governments concerned.

All questions regarding occupation not provided for by the treaty will be regulated by a subsequent convention or conventions, which will have similar force and effect.

<sup>1</sup>The three districts to be evacuated begin at the north and extend: 1, From the Dutch frontier to the height of Ruhr, to the junction of the Ahr with the Rhine; 2, From the intersection of the German, Dutch and Belgian frontiers to the Rhine at Bacharach; 3, The rest of the territory on the left bank of the Rhine.

## SECTION XV

## FINAL CLAUSES OF THE TREATY

Germany agrees to recognize the full validity of the treaties of peace and additional conventions to be concluded by the allied and associated powers with the powers allied with Germany, to agree to the decisions to be taken as to the territories of Austria-Hungary, Bulgaria and Turkey, and to recognize the new states in the frontiers to be fixed for them.

[The high contracting parties take note of the treaty of July, 1918, between France and the principality of Monaco.

[They agree that chairmen of commissions shall under certain circumstances have a second vote, failing provisions to the contrary.<sup>1</sup>]

Germany agrees not to put forward any pecuniary claims against any allied or associated power signing the present treaty based on events previous to the coming into force of the treaty.

Germany accepts all decrees as to German ships and goods made by any allied or associated prize court. The Allies reserve the right to examine all decisions of German prize courts.

The present treaty, of which the French and English texts are both authentic, shall be ratified and the depositions of ratification made in Paris as soon as possible.

[As soon as it shall have been ratified by Germany on the one part and by three of the principal allied and associated powers on the other, the treaty shall enter into force among the high contracting parties who have ratified it, and this date will serve as a basis for the calculation of the periods stipulated in the treaty.<sup>2</sup>]

The treaty is to become effective in all respects for each power on the date of deposit of its ratification.

<sup>1</sup>Paragraphs taken from the English text.

<sup>2</sup>Paragraph taken from the French version.

# COVENANT OF THE LEAGUE OF NATIONS

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ADOPTED AT THE PLENARY SESSION OF THE INTERALLIED PEACE  
CONFERENCE, APRIL 28, 1919

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In order to promote international co-operation and to achieve international peace and security by the acceptance of obligations not to resort to war, by the prescription of open, just and honorable relations between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among Governments, and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another, the high contracting parties agree to this Covenant of the League of Nations:

## ARTICLE I

### *Membership and Withdrawal*

1. The original members of the League of Nations shall be those of the signatories which are named in the annex to this Covenant and also such of those other states named in the annex as shall accede without reservation to this Covenant. Such accessions shall be effected by a declaration deposited with the Secretariat within two months of the coming into force of the Covenant. Notice thereof shall be sent to all other members of the League.

2. Any fully self-governing state, dominion or colony not named in the annex may become a member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guaranties of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed by the League in regard to its military and naval forces and armaments.

3. Any member of the League may, after two years' notice of its intention so to do, withdraw from the League, provided that all its international obligations and all its obligations under this Covenant shall have been fulfilled at the time of its withdrawal.



## ARTICLE II

*Executive Organs*

1. The action of the League<sup>1</sup> under this Covenant shall be effected through the instrumentality of an Assembly and of a Council, with a permanent Secretariat.

## ARTICLE III

*Assembly*

1. The Assembly shall consist of representatives of the members of the League.

2. The Assembly shall meet at stated intervals and from time to time as occasion may require at the seat of the League, or at such other place as may be decided upon.

3. The Assembly may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

4. At meetings of the Assembly each member of the League shall have one vote, and may have not more than three representatives.

## ARTICLE IV

*Council*

1. The Council shall consist of representatives of the United States of America, of the British Empire, of France, of Italy, and of

<sup>1</sup> The first action on behalf of the League of Nations is taking place by virtue of a motion made by the president of the League of Nations Commission at the plenary session of the Interallied Peace Conference on April 28, 1919, as follows:

"That the powers to be represented on the Council of the League of Nations are requested to name representatives who shall form a committee of nine to prepare plans for the organization of the League, and therefore the establishment of the seat of the League, and to make arrangements and to prepare the agenda for the first meeting of the Assembly; this committee to report both to the Council and to the Assembly of the League."

A statement issued May 5 said:

"The Organization Committee of the League of Nations, which was appointed by a resolution of the plenary conference on April 28, held its first meeting at the Hotel Crillon at 4 o'clock on Monday, May 5, and agreed on a number of resolutions for the provisional organization of the League.

"On motion of E. M. House, of the United States, M. Pichon, minister of foreign affairs, was elected chairman and Sir Eric Drummond was invited to occupy his seat as acting Secretary-General.

"The following were present: M. Pichon, France, chairman; E. M. House, United States; Lord Robert Cecil, Great Britain; Marquis Imperiali, Italy; Viscount Chinda, Japan; M. Rolin Jaquemyns, Belgium; M. Venizelos, Greece; Guinones de Leon, Spain, and Antonio O. de Magalhaes, Brazil."

Japan, together with representatives of four other members of the League. These four members of the League shall be selected by the Assembly from time to time in its discretion. Until the appointment of the representatives of the four members of the League first selected by the Assembly, representatives of Belgium, Brazil, Greece and Spain shall be members of the Council.<sup>1</sup>

2. With the approval of the majority of the Assembly, the Council may name additional members of the League whose representatives shall always be members of the Council; the Council with like approval may increase the number of members of the League to be selected by the Assembly for representation on the Council.

3. The Council shall meet from time to time as occasion may require, and at least once a year, at the seat of the League, or at such other place as may be decided upon.

4. The Council may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

5. Any member of the League not represented on the Council shall be invited to send a representative to sit as a member at any meeting of the Council during the consideration of matters specially affecting the interests of that member of the League.

6. At meetings of the Council each member of the League represented on the Council shall have one vote, and may have not more than one representative.

## ARTICLE V

### *Voting and Procedure*

1. Except where otherwise expressly provided in this Covenant, or by the terms of this treaty<sup>2</sup>, decisions at any meeting of

<sup>1</sup> The president of the League of Nations Commission at the plenary session of the Interallied Peace Conference on April 28, 1919, said:

"I take the opportunity to move the following resolution in order to carry out the provisions of the Covenant. You will notice that the Covenant provides that . . . the first choice of the four member states who are to be added to the five great powers on the Council is left to this Conference. I move, therefore . . .

"That, until such time as the Assembly shall have selected the first four members of the League to be represented on the Council in accordance with Article IV of the Covenant, representatives of Belgium, Brazil, Greece and Spain shall be members."

The motion was carried.

<sup>2</sup>The president of the League of Nations Commission in the plenary session

the Assembly or of the Council shall require the agreement of all the members of the League represented at the meeting.

2. All matters of procedure at meetings of the Assembly or of the Council, including the appointment of committees to investigate particular matters, shall be regulated by the Assembly or by the Council and may be decided by a majority of the members of the League represented at the meeting.

3. The first meeting of the Assembly and the first meeting of the Council shall be summoned by the President of the United States of America.

## ARTICLE VI

### *Secretariat*

1. The permanent Secretariat shall be established at the seat of the League. The Secretariat shall comprise a Secretary-General and such secretaries and staff as may be required.

2. The first Secretary-General shall be the person named in the annex; thereafter the Secretary-General shall be appointed by the Council with the approval of the majority of the Assembly.

3. The secretaries and the staff of the Secretariat shall be appointed by the Secretary-General with the approval of the Council.

4. The Secretary-General shall act in that capacity at all meetings of the Assembly and of the Council.

5. The expenses of the Secretariat shall be borne by the members of the League in accordance with the apportionment of the expenses of the International Bureau of the Universal Postal Union.

of the Interallied Peace Conference, April 28, 1919, made the following explanation of this phrase:

"If Baron Makino will pardon me for introducing a matter which I absent-mindedly overlooked, it is necessary for me to propose the alteration of several words in the first line of Article V. Let me say, in several parts of the treaty of which this Covenant will form a part, certain duties are assigned to the Council of the League of Nations. In some instances it is provided that the action they shall take shall be by a majority vote. It is therefore necessary to make the Covenant conform with the other portions of the treaty by adding these words. I will read the first line and add the words:

"'Except where otherwise expressly provided in this Covenant, or by the terms of this treaty, decisions at any meeting of the Assembly or of the Council shall require the agreement of all the members of the League represented at the meeting.'

"'Except where otherwise expressly provided in this Covenant,' is the present reading, and I move the addition of 'or by the terms of this treaty.'

"With that addition, I move the adoption of the Covenant."

## ARTICLE VII

*Seat, Qualifications for Officials, Immunities*

1. The seat of the League is established at Geneva.
2. The Council may at any time decide that the seat of the League shall be established elsewhere.
3. All positions under or in connection with the League, including the Secretariat, shall be open equally to men and women.
4. Representatives of the members of the League and officials of the League when engaged on the business of the League shall enjoy diplomatic privileges and immunities.
5. The buildings and other property occupied by the League or its officials or by representatives attending its meetings shall be inviolable.

## ARTICLE VIII

*Reduction of Armaments*

1. The members of the League recognize that the maintenance of peace requires the reduction of national armaments to the lowest point consistent with national safety and the enforcement by common action of international obligations.
2. The Council, taking account of the geographical situation and circumstances of each member, shall formulate plans for such reduction for the consideration and action of the several Governments.
3. Such plans shall be subject to reconsideration and revision at least every 10 years.
4. After these plans shall have been adopted by the several Governments, the limits of armaments therein fixed shall not be exceeded without the concurrence of the Council.
5. The members of the League agree that the manufacture by private enterprise of munitions and implements of war is open to grave objections. The Council shall advise how the evil effects attendant upon such manufacture can be prevented, due regard being had to the necessities of those members of the League which are not able to manufacture the munitions and implements of war necessary for their safety.
6. The members of the League undertake to interchange full and frank information as to the scale of their armaments, their



military and naval programs, and the condition of such of their industries as are adaptable to warlike purposes.

#### ARTICLE IX

##### *Permanent Military Commission*

1. A permanent commission shall be constituted to advise the Council on the execution of the provisions of Articles I and VIII and on military and naval questions generally.

#### ARTICLE X

##### *Guaranties Against Aggression*

1. The members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled.

#### ARTICLE XI

##### *Action in Case of War or Threat of War*

1. Any war or threat of war, whether immediately affecting any of the members of the League or not, is hereby declared a matter of concern to the whole League, and the League shall take any action that may be deemed wise and effectual to safeguard the peace of nations. In case any such emergency should arise, the Secretary-General shall, on the request of any member of the League, forthwith summon a meeting of the Council.

2. It is also declared to be the friendly right of each member of the League to bring to the attention of the Assembly or of the Council any circumstance whatever affecting international relations which threatens to disturb either the peace or the good understanding between nations upon which peace depends.

#### ARTICLE XII

##### *Disputes to Be Submitted to Arbitration or Inquiry*

1. The members of the League agree that, if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the Council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the Council.



2. In any case under this article the award of the arbitrators shall be made within a reasonable time, and the report of the Council shall be made within six months after the submission of the dispute.

### ARTICLE XIII

#### *Arbitration of Disputes*

1. The members of the League agree that, whenever any dispute shall arise between them which they recognize to be suitable for submission to arbitration and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject matter to arbitration.

2. Disputes as to the interpretation of a treaty, as to any question of international law, as to the existence of any fact which if established would constitute a breach of any international obligation, or as to the extent and nature of the reparation to be made for any such breach, are declared to be among those which are generally suitable for submission to arbitration.

3. For the consideration of any such dispute the court of arbitration to which the case is referred shall be the court agreed on by the parties to the dispute or stipulated in any convention existing between them.

4. The members of the League agree that they will carry out in full good faith any award that may be rendered and that they will not resort to war against a member of the League which complies therewith. In the event of any failure to carry out such an award, the Council shall propose what steps should be taken to give effect thereto.

### ARTICLE XIV

#### *Court of International Justice*

1. The Council shall formulate and submit to the members of the League for adoption plans for the establishment of a permanent Court of International Justice. The court shall be competent to hear and determine any dispute of an international character which the parties thereto submit to it. The court may also give an advisory opinion upon any dispute or question referred to it by the Council or by the Assembly.

## ARTICLE XV

*Disputes Not Submitted to Arbitration*

1. If there should arise between members of the League any dispute likely to lead to a rupture, which is not submitted to arbitration as above, the members of the League agree that they will submit the matter to the Council. Any party to the dispute may effect such submission by giving notice of the existence of the dispute to the Secretary-General, who will make all necessary arrangements for a full investigation and consideration thereof.

2. For this purpose the parties to the dispute will communicate to the Secretary-General, as promptly as possible, statements of their case, with all the relevant facts and papers, and the Council may forthwith direct the publication thereof.

3. The Council shall endeavor to effect a settlement of the dispute and, if such efforts are successful, a statement shall be made public giving such facts and explanations regarding the dispute and terms of settlement thereof as the Council may deem appropriate.

4. If the dispute is not thus settled, the Council either unanimously or by a majority vote shall make and publish a report containing a statement of the facts of the dispute and the recommendations which are deemed just and proper in regard thereto.

5. Any member of the League represented on the Council may make public a statement of the facts of the dispute and of its conclusions regarding the same.

6. If a report by the Council is unanimously agreed to by the members thereof other than the representatives of one or more of the parties to the dispute, the members of the League agree that they will not go to war with any party to the dispute which complies with the recommendations of the report.

7. If the Council fails to reach a report which is unanimously agreed to by the members thereof, other than the representatives of one or more of the parties to the dispute, the members of the League reserve to themselves the right to take such action as they shall consider necessary for the maintenance of right and justice.

8. If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party,

the Council shall so report and shall make no recommendation as to its settlement.

9. The Council may in any case under this article refer the dispute to the Assembly. The dispute shall be so referred at the request of either party to the dispute, provided that such request be made within 14 days after the submission of the dispute to the Council.

10. In any case referred to the Assembly, all the provisions of this article and of Article XII relating to the action and powers of the Council shall apply to the action and powers of the Assembly, provided that a report made by the Assembly, if concurred in by the representatives of those members of the League represented on the Council and of a majority of the other members of the League, exclusive in each case of the representatives of the parties to the dispute, shall have the same force as a report by the Council concurred in by all the members thereof other than the representatives of one or more of the parties to the dispute.

## ARTICLE XVI

### *Sanctions*

1. Should any member of the League resort to war in disregard of its covenants under Articles XII, XIII or XV, it shall *ipso facto* be deemed to have committed an act of war against all other members of the League, which hereby undertake immediately to subject it to the severance of all trade or financial relations, the prohibition of all intercourse between their nationals and the nationals of the covenant-breaking member of the League, and the prevention of all financial, commercial or personal intercourse between the nationals of the covenant-breaking member of the League and the nationals of any other state, whether a member of the League or not.

2. It shall be the duty of the Council in such case to recommend to the several Governments concerned what effective military or naval force the members of the League shall severally contribute to the armed forces to be used to protect the covenants of the League.

3. The members of the League agree, further, that they will mutually support one another in the financial and economic measures

which are taken under this article, in order to minimize the loss and inconvenience resulting from the above measures, and that they will mutually support one another in resisting any special measures aimed at one of their number by the covenant-breaking member of the League, and that they will take the necessary steps to afford passage through their territory to the forces of any of the members of the League which are co-operating to protect the covenants of the League.

4. Any member of the League which has violated any covenant of the League may be declared to be no longer a member of the League by a vote of the Council concurred in by the representatives of all the other members of the League represented thereon.

## ARTICLE XVII

### *Disputes with Non-Members*

1. In the event of a dispute between a member of the League and a state which is not a member of the League, or between states not members of the League, the state or states not members of the League shall be invited to accept the obligations of membership in the League for the purposes of such dispute, upon such conditions as the Council may deem just. If such invitation is accepted, the provisions of Articles XII to XVI, inclusive, shall be applied with such modifications as may be deemed necessary by the Council.

2. Upon such invitation being given, the Council shall immediately institute an inquiry into the circumstances of the dispute and recommend such action as may seem best and most effectual in the circumstances.

3. If a state so invited shall refuse to accept the obligations of membership in the League for the purposes of such dispute, and shall resort to war against a member of the League, the provisions of Article XVI shall be applicable as against the state taking such action.

4. If both parties to the dispute, when so invited, refuse to accept the obligations of membership in the League for the purposes of such dispute, the Council may take such measures and make such recommendations as will prevent hostilities and will result in the settlement of the dispute.



## ARTICLE XVIII

*Registration and Publication of Treaties*

1. Every treaty or international engagement entered into henceforward by any member of the League shall be forthwith registered with the Secretariat and shall as soon as possible be published by it. No such treaty or international engagement shall be binding until so registered.

## ARTICLE XIX

*Review of Treaties*

1. The Assembly may from time to time advise the reconsideration by members of the League of treaties which have become inapplicable, and the consideration of international conditions whose continuance might endanger the peace of the world.

## ARTICLE XX

*Abrogation of Inconsistent Obligations*

1. The members of the League severally agree that this Covenant is accepted as abrogating all obligations or understandings *inter se* which are inconsistent with the terms thereof, and solemnly undertake that they will not hereafter enter into any engagements inconsistent with the terms thereof.

2. In case any member of the League shall, before becoming a member of the League, have undertaken any obligations inconsistent with the terms of this Covenant, it shall be the duty of such member to take immediate steps to procure its release from such obligations.

## ARTICLE XXI

*Engagements that Remain Valid*

1. Nothing in this Covenant shall be deemed to affect the validity of international engagements such as treaties of arbitration or regional understandings like the Monroe doctrine for securing the maintenance of peace.

## ARTICLE XXII

*Control of Colonies and Territories*

1. To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the states



which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in this Covenant.

2. The best method of giving practical effect to this principle is that the tutelage of such peoples should be intrusted to advanced nations who, by reason of their resources, their experience or their geographical position, can best undertake this responsibility and who are willing to accept it, and that this tutelage should be exercised by them as mandatories on behalf of the League.<sup>1</sup>

3. The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions, and other similar circumstances.

4. Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the mandatory.

5. Other peoples, especially those of Central Africa, are at such a stage that the mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience or religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the pre-

<sup>1</sup>"An official communiqué issued May 7, 1919, stated:

"The Council of Three—M. Clemenceau, President Wilson and Mr. Lloyd George—yesterday decided as to the disposition of the former German colonies as follows:

"Togoland and Kamerun—France and Great Britain shall make a joint recommendation to the League of Nations as to their future.

"German East Africa—The mandate shall be held by Great Britain.

"German Southwest Africa—The mandate shall be held by the Union of South Africa.

"The German Samoan Islands—The mandate shall be held by New Zealand.

"The other German Pacific possessions south of the equator, excluding the German Samoan Islands and Nauru—The mandate shall be held by Australia.

"Nauru (Pleasant Island)—The mandate shall be given to the British Empire.

"The German Pacific islands north of the equator—The mandate shall be held by Japan."

vention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and for the defense of territory, and will also secure equal opportunities for the trade and commerce of other members of the League.

6. There are territories, such as Southwest Africa and certain of the South Pacific islands, which, owing to the sparseness of their population or their small size, or their remoteness from the centers of civilization, or their geographical contiguity to the territory of the mandatory, and other circumstances, can be best administered under the laws of the mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

7. In every case of mandate the mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

8. The degree of authority, control or administration to be exercised by the mandatory shall, if not previously agreed upon by the members of the League, be explicitly defined in each case by the Council.

9. A permanent commission shall be constituted to receive and examine the annual reports of the mandatories, and to advise the Council on all matters relating to the observance of the mandates.

## ARTICLE XXIII

### *Social Activities*

1. Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the members of the League:

(a) will endeavor to secure and maintain fair and humane conditions of labor for men, women and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organizations;

(b) undertake to secure just treatment of the native inhabitants of territories under their control;

(c) will intrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children and the traffic in opium and other dangerous drugs;

(d) will intrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest;

(e) will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all members of the League. In this connection, the special necessities of the regions devastated during the war of 1914-1918 shall be borne in mind;

(f) will endeavor to take steps in matters of international concern for the prevention and control of disease.

## ARTICLE XXIV

### *International Bureaus*

1. There shall be placed under the direction of the League all International Bureaus already established by general treaties, if the parties to such treaties consent. All such International Bureaus and all Commissions for the regulation of matters of international interest hereafter constituted shall be placed under the direction of the League.

2. In all matters of international interest which are regulated by general conventions but which are not placed under the control of international bureaus or commissions, the Secretariat of the League shall, subject to the consent of the Council and if desired by the parties, collect and distribute all relevant information and shall render any other assistance which may be necessary or desirable.

3. The Council may include as part of the expenses of the Secretariat the expenses of any Bureau or Commission which is placed under the direction of the League.

## ARTICLE XXV

### *Promotion of Red Cross*

1. The members of the League agree to encourage and promote the establishment and co-operation of duly authorized voluntary national Red Cross organizations having as purposes the improvement of health, the prevention of disease and the mitigation of suffering throughout the world.

## ARTICLE XXVI

*Amendments*

1. Amendments to this Covenant will take effect when ratified by the members of the League whose representatives compose the Council and by a majority of the members of the League whose representatives compose the Assembly.

2. No such amendment shall bind any member of the League which signifies its dissent therefrom, but in that case it shall cease to be a member of the League<sup>1</sup>.

## ANNEX

I. Original members of the League of Nations, signatories of the treaty of peace:

United States of America	Guatemala
Belgium	Haiti
Bolivia	Hedjaz
Brazil	Honduras
British Empire	Italy
Canada	Japan
Australia	Liberia
South Africa	Nicaragua
New Zealand	Panamá
India	Perú
China	Poland
Cuba	Portugal
Czecho-Slovakia	Rumania
Ecuador	Serbia
France	Siam
Greece	Uruguay

States invited to accede to the Covenant:

Argentine Republic	Persia
Chile	Salvador
Colombia	Spain
Denmark	Sweden
Netherlands	Switzerland
Norway	Venezuela
Paraguay	

<sup>1</sup> The president of the League of Nations Commission at the plenary session of the Interallied Peace Conference on April 28, 1919, stated that this paragraph

II. First Secretary-General of the League of Nations: Sir James Eric Drummond<sup>1</sup>.

"was added at the request of the Brazilian delegation in order to avoid certain constitutional difficulties."

<sup>1</sup>The president of the League of Nations Commission at the plenary session of the Interallied Peace Conference on April 23, 1919, said:

"I take the opportunity to move the following resolutions in order to carry out the provisions of the Covenant. You will notice that the Covenant provides that the first Secretary-General shall be chosen by this Conference [see Article VI, 2] . . . I move, therefore, that the first Secretary-General of the Council (*sic*) shall be the Hon. Sir James Eric Drummond."

The motion was carried.



# CONTENTS

Preamble.....	3	SECTION VIII. Reparation and res- titution.....	26
SECTION I. The League of Nations	4	Shipping.....	29
SECTION II. Geographical fron- tiers of Germany.....	8	Devastated areas.....	29
SECTION III. European political clauses:		Coal, etc.....	29
Belgium.....	9	Dyestuffs and chemical drugs....	30
Luxemburg.....	9	Special provisions.....	30
Left bank of the Rhine.....	10	SECTION IX. Finance.....	31
Saar basin.....	10	SECTION X. Economic clauses:	
Alsace-Lorraine.....	12	Customs.....	32
German Austria.....	13	Shipping.....	33
Czecho-Slovakia.....	13	Unfair competition.....	33
Poland.....	13	Treatment of nationals.....	34
East Prussia.....	13	Multilateral conventions.....	34
Danzig.....	14	Bilateral treaties.....	35
Denmark (Sleswig).....	15	Prewar debts.....	35
Helgoland.....	16	Enemy property.....	36
Russia and the Russian states... 16		Contracts.....	37
SECTION IV. Extra-European clauses:		Industrial property.....	38
German rights outside Europe... 16		Opium.....	38
Colonies and overseas possessions:		Religious missions.....	38
Traffic in arms; traffic in spirits; acts of Berlin and Brussels.... 17		SECTION XI. Aerial navigation.... 38	
China.....	17	SECTION XII. Ports, waterways and railways:	
Siam.....	18	Freedom of transit.....	39
Liberia.....	18	Free zones in ports.....	39
Morocco.....	18	International rivers.....	40
Egypt.....	19	The Danube.....	40
Turkey and Bulgaria.....	19	The Rhine and the Moselle..... 40	
Shantung.....	20	Railways.....	42
SECTION V. Military, naval and air clauses:		Czecho-Slovakia.....	42
Military.....	20	The Kiel Canal.....	43
Naval.....	22	SECTION XIII. International labor organization.....	43
Air.....	24	Labor clauses.....	44
SECTION VI. Prisoners of war and soldiers' graves.....	24	SECTION XIV. Guaranties asked of foe:	
Graves.....	25	Western Europe.....	45
SECTION VII. Responsibility (in- cluding William II).....	25	Eastern Europe.....	45
		SECTION XV. Final clauses.....	46
		Covenant of the League of Nations. 47	

## RESOLUTION

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*Whereas*, we believe that the United States should now enter the League of Nations in order to promote international co-operation and to achieve international peace and security; and

*Whereas*, the Peace Conference at Paris, at its first session, recognized the necessity of making the League of Nations the basis of the treaty of peace, and has shaped the whole treaty on the assumption that this League of Nations will be formed; and

*Whereas*, the first draft of the Covenant of the League of Nations was submitted for world-wide discussion and, in the light of such discussion, has been largely amended to meet suggestions made by American statesmen; and

*Whereas*, ample provision is made in the present Covenant for such future amendments as prove desirable; and

*Whereas*, a nation which fails to secure satisfactory conditions is at liberty at any time to give two years' notice of withdrawal; and

*Whereas*, the perfected Covenant has already become an essential part of the peace treaty with Germany, and cannot be further amended at this time without jeopardizing the whole peace treaty, and inviting the spread of international anarchy,

*Now, Therefore*, we earnestly urge that the United States Senate, without unreasonable delay, ratify the treaty of peace when it shall be submitted for ratification, and thereby secure the maintenance of world peace, which is the great end for which we fought the war, and without the attainment of which all our sacrifices of blood and treasure will have been in vain.

Adopted by the Massachusetts  
Joint Committee for a League  
of Free Nations

# INDEX

	PAGE		PAGE
Adams, Ephraim Douglass, article on "Great Britain, America, and democracy".....	1-28	Austria: independence recognized by Germany under peace treaty.....	443
Aerial navigation, peace treaty provisions	468-469	union with Germany prohibited.....	368-369
Allied Powers: note protesting against China's inactivity in the war.....	215-217	Barbosa, Ruy.....	233, 235-236
understanding regarding Japanese war claims.....	219-223	Barnes, George N.: remarks before Peace Conference— on labor conventions.....	300-305
Alsace-Lorraine, peace treaty provisions	442-443	on presentation of League of Nations covenant.....	430-432
American Federation of Labor: delegation to Europe, 1918.....	279	Belgium, German peace treaty provisions.	439
international conference proposed by	274-276	Bern, Switzerland: International Trade Union Conference, 1919, labor charter.....	325-329
American Revolution: effect on British politics.....	5-6	labor conference, 1905, work of.....	272
new views of war history, letters by Benjamin Russell.....	31-40	labor conference, 1913, work of.....	272-273
public opinion in Great Britain during..	4-5	labor conference, 1917, resolutions.....	278
"Anglo-American relations," by Benjamin Russell.....	31-44	Bibliographies: diplomatic relations between United States and Great Britain.....	29-30
Arbitration: provisions of League of Nations cove- nant—		Latin America and the war.....	267-268
as given in covenant adopted by Peace Conference.....	482-483	League of Nations.....	269-270
as given in draft of Feb. 14, 1919..	408-409	Bolivia, attitude toward the war.....	259
as given in summary of treaty.....	436	Bourgeois, Léon, remarks on presentation to Peace Conference of covenant of League of Nations.....	426-430
discussed by A. Lawrence Lowell.	133-135	Boxer rebellion, attitude of U. S.....	218-219
discussed by George W. Wicker- sham.....	143-146	Brazil: declaration of war against Germany.	240-241
historical background.....	146-149	economic effects of the war on.....	234
Argentina: approval of entrance of United States into the war.....	251	foodstuffs furnished the Allies.....	244-245
attitude regarding the war.....	249-250	friction with Germany, causes.....	236-237
disclosures regarding Luxburg notes.	252-255	indignation over submarine warfare.	234, 235
German propaganda in Argentina... 250, 254		precautions against her German settlers	241-243
popular feeling against Germany.... 252, 254		seizure of German ships.....	238
President Irigoyen's attitude toward Germany.....	252-253	severance of diplomatic relations with Germany.....	237
reasons for remaining at peace.....	251	ships torpedoed.....	235, 237, 238, 240
ships torpedoed.....	252	sympathies of Brazilians with Allies....	233, 235-236
Armaments: increase in—		traditional friendship for United States	238-240
cause of war.....	123	war measures adopted.....	243-244
evils of.....	124	Brazilian League for the Allies.....	233-234
reduction by League of Nations—		Bulgaria, German peace treaty provisions.	449
discussed by William H. Taft.....	123-127	Canada, rebellion of 1837.....	12-13
provisions as given in summary of treaty.....	436	Cecil, Lord Robert, remarks on presenta- tion to Peace Conference of cove- nant of League of Nations.....	422-424
provisions of covenant as adopted by Peace Conference.....	481-482	Chengchia Tun negotiations, 1916-17..	204-207
provisions of draft of Feb. 14, 1919	406-407	Chile, attitude regarding the war.....	255-258
Armies, see Armaments.		China: advised by U. S. to join Allies.....	190
Art objects, to be restored by Germany...	460	Boxer rebellion, attitude of U. S.....	218-219
Assembly of League of Nations, see League of Nations.		causes of weakness.....	172-174
		Chengchia Tun negotiations, 1916-17	204-207

	PAGE		PAGE
China—Continued.		Colonial mandates—Continued.	
civil strife and weakness of government	168-170	disposition of former German colonies..	488
convention with Germany regarding		provisions of League covenant—	
Shantung, 1898.....	225-226	as adopted by Peace Conference..	487-489
declaration of war against Germany....	185	in draft of Feb. 14, 1919.....	413-414
diplomatic relations with Germany		in summary of treaty.....	437
severed.....	182	Commerce:	
exchange of notes with Japan regarding—		customs provisions of German peace	
employment of advisers in South Man-		treaty.....	462-463
churia.....	202	unfair competition by Germany pro-	
Fukien question.....	203-204	hibited by peace treaty.....	463-464
Han-yeh-ping Company.....	202-203	Commission on International Legislation	
Manchurian railways.....	210	on Labor, see Labor Commission of	
mines in South Manchuria.....	200-201	Peace Conference.	
railroad leases in Manchuria.....	198	Constitution of the German Common-	
railways and taxes in Manchuria and		wealth.....	343-400
Mongolia.....	201-202	Constitution of United States, League of	
Shantung.....	197, 210-212	Nations covenant in relation to..	85-88,
South Manchuria and eastern Inner			111-113
Mongolia.....	199	Contracts, German peace treaty provi-	
financial dependence on other countries.	170	sions.....	467-468
foreign spheres of influence.....	170-172	Cortina, José Manuel, extract from address	
German peace treaty provisions.....	447-448	on Cuba's entry into the war.....	249
growth of national spirit.....	187	Council of League of Nations, see League	
inactivity in the war, Allied note pro-		of Nations.	
testing against.....	215-217	Court of International Justice:	
instructions to delegation to Peace		establishment—	
Conference.....	209-210	discussed by A. Lawrence Lowell..	135-136
internal dissension, 1914-19.....	181-185	provisions as given in summary of	
Japanese policy in.....	174-176	peace treaty.....	436
Japanese policy in, statement of Viscount		provisions of covenant as adopted by	
Uchida.....	212-213	Peace Conference.....	483
Japanese power in.....	180-181	provisions of draft of Feb. 14, 1919..	409
Japan's demands in 1916-18.....	178-180	"Covenanter: letters on covenant of	
Japan's 21 demands, 1915..	176-178, 192-195	League of Nations".....	99-166
Japan's 21 demands, 1915, agreed to....	178	Cuba:	
Lansing-Ishii exchange of notes regard-		aid given the Allies during the war..	247-249
ing.....	178-179, 190	declaration of war against Germany.	246-247
military agreement with Japan, May		loyalty to United States.....	249
25, 1918.....	207-209	Czecho-Slovakia:	
open door policy, Sec. Hay's note,		German peace treaty provisions.....	472-473
1899.....	217-218	independence recognized by Germany	
part in the war taken by.....	185-186	under peace treaty.....	443
population.....	168, 174	Danube River, German peace treaty pro-	
resources.....	167-168	visions.....	470
Russo-Japanese treaty regarding, 1916		Danzig, German peace treaty provisions	444-445
	214-215	Debts, prewar, German peace treaty pro-	
treaties with Japan regarding—		visions.....	465-466
Shantung.....	195-197	Democracy, in Great Britain and America.	1-28
South Manchuria and eastern Inner		Denmark, frontier, German peace treaty	
Mongolia.....	198-200	provisions.....	445-446
United States policy in.....	188-190	Dominican Republic, attitude toward the	
	190-191, 217-219	war.....	262
world concerned in country's future.	186-188	Drago, Luis Maria, statement disapprov-	
see also Kiaochow—Manchuria—Mon-		ing neutrality of Argentina.....	251-252
golia—Shantung.		Drugs, German peace treaty provisions...	460
"China, the United States and the war,"		Dyestuffs, German peace treaty provisions.	460
by Kenneth Scott Latourette... 167-191		East Prussia, peace treaty provisions...	443-444
"Chino-Japanese negotiations, 1915-1918"		Ecuador, attitude toward the war.....	259
	192-213	Education, provisions of German Constitu-	
Civil War (U. S.):		tion, 1919.....	389-392
attitude of Great Britain.....	19-23	Egypt, German peace treaty provisions...	449
attitude of Great Britain misunderstood		Elbe River, declared international.....	470
	23-25	Eupen, change of sovereignty.....	439
Coal, German peace treaty provisions..	459-460	European War, see World War.	
Colliard, Pierre, remarks before Peace		Finance, German peace treaty provisions,	461-462
Conference on labor convention..	305-306	Food supply:	
Colonial mandates:		Brazil's aid to Allies.....	244-245
discussed by Senator Lodge.....	61	Cuba's aid to Allies.....	248-249
discussed by A. Lawrence Lowell..	76-77, 155		
discussed by George W. Wickersham.	157-160		



- |                                            | PAGE     |                                            | PAGE         |
|--------------------------------------------|----------|--------------------------------------------|--------------|
| France:                                    |          | Germany—Continued.                         |              |
| admiration of Argentine intellectuals for  | 250      | government ownership, provisions of        |              |
| commission on Society of Nations.....      | 45-48    | Constitution.....                          | 376-380, 394 |
| sympathy of Latin America for.....         | 229      | guaranties for execution of peace treaty.. | 475          |
| see also Allied Powers.                    |          | jurisdiction of Commonwealth.....          | 354-356      |
| Fukien Province, China, dockyards, etc.,   |          | justice, provisions of Constitution...     | 380-381      |
| on coast, Chino-Japanese notes..           | 203-204  | labor, provisions of Constitution....      | 394-396      |
| German propaganda:                         |          | law making powers, provisions of Con-      |              |
| in Argentina.....                          | 250, 254 | stitution.....                             | 370-373      |
| in Chile.....                              | 256      | Luxburg notes regarding Argentine          |              |
| in Latin America.....                      | 230-231  | ships.....                                 | 252-255      |
| Germans in Brazil, precautions against..   | 241-243  | methods of warfare, indignation of Latin   |              |
| Germany:                                   |          | America.....                               | 220          |
| air service, peace treaty provisions.....  | 454      | missions, peace treaty provisions.....     | 468          |
| armaments, peace treaty provisions..       | 450-451  | National Assembly, provisions of Con-      |              |
| army, peace treaty provisions.....         | 450      | stitution.....                             | 359-364      |
| Austria's union with Germany pro-          |          | National Cabinet, provisions of Consti-    |              |
| hibited.....                               | 387-389  | tution.....                                | 366-368      |
| boundaries, peace treaty provisions..      | 438-439  | National Chancellor, provisions of Con-    |              |
| cables, submarine, peace treaty provi-     |          | stitution.....                             | 366-368      |
| sions.....                                 | 453-454  | national colors.....                       | 353          |
| citizenship, rights and duties under       |          | National Council, provisions of Consti-    |              |
| Constitution.....                          | 382-384  | tution.....                                | 368-370      |
| civil service, provisions of Constitu-     |          | National Ministers, provisions of Con-     |              |
| tion.....                                  | 386-387  | stitution.....                             | 366-368      |
| colonies—                                  |          | navy, peace treaty provisions.....         | 452-453      |
| mandates assigned.....                     | 488      | popular feeling in Argentina against..     | 252, 254     |
| peace treaty provisions.....               | 447      | ports, peace treaty provisions.....        | 460          |
| communication systems, provisions of       |          | President, provisions of Constitution      | 364-366,     |
| Constitution.....                          | 376      | 367                                        |              |
| community life, provisions of Constitu-    |          | propaganda, see German propaganda.         |              |
| tion.....                                  | 384-387  | provisional government, 1919.....          | 347-348      |
| conscription, abolished by peace treaty..  | 451      | public debt, peace treaty provisions....   | 461          |
| Constitution of Commonwealth—              |          | railroads—                                 |              |
| adoption.....                              | 348      | peace treaty provisions.....               | 460, 472     |
| amendment.....                             | 372-373  | provisions of Constitution.....            | 376-378      |
| terminology.....                           | 350-351  | relations of Commonwealth and States       |              |
| text.....                                  | 353-400  | 353-359                                    |              |
| Constitutional Convention, 1919....        | 345-347  | religion, provisions of Constitution..     | 387-389      |
| convention with China regarding Shan-      |          | reparation and restitution, provisions of  |              |
| tung, 1898.....                            | 225-226  | peace treaty.....                          | 456-461      |
| courts, provisions of Constitution...      | 380-381  | responsibility for the war fixed by peace  |              |
| customs—                                   |          | treaty.....                                | 455-456      |
| peace treaty provisions.....               | 462-463  | revolution of 1918.....                    | 343-345      |
| provisions of Constitution.....            | 374-375  | rights and duties of Germans under Con-    |              |
| declaration of war against—                |          | stitution.....                             | 382-384      |
| by Brazil.....                             | 240-241  | ships seized by Brazil.....                | 238          |
| by China.....                              | 185      | social conditions, provisions of Consti-   |              |
| by Costa Rica.....                         | 262      | tution.....                                | 384-385      |
| by Cuba.....                               | 246-247  | submarine warfare, see Submarine war-      |              |
| by Guatemala.....                          | 262      | fare.                                      |              |
| by Haiti.....                              | 262      | taxation, provisions of Constitution....   | 355,         |
| by Honduras.....                           | 262      | 374-375                                    |              |
| by Nicaragua.....                          | 262      | transportation, provisions of Constitu-    |              |
| by Panama.....                             | 261      | tion.....                                  | 376-380      |
| diplomatic relations severed by—           |          | treaties, peace treaty provisions.....     | 464-465      |
| Brazil.....                                | 237      | waterways—                                 |              |
| China.....                                 | 182      | peace treaty provisions.....               | 460          |
| economic conditions, provisions of Con-    |          | provisions of Constitution.....            | 378-380      |
| stitution.....                             | 392-396  | see also East Prussia—West Prussia.        |              |
| education, provisions of Constitution      | 389-392  | Government ownership, provisions of Ger-   |              |
| effort to change labor provisions of peace |          | man Constitution, 1919....                 | 376-380, 394 |
| treaty.....                                | 324-337  | Graves, see Military graves.               |              |
| enemy property in, peace treaty provi-     |          | Great Britain:                             |              |
| sions.....                                 | 466-467  | appreciation of Britain by U. S.....       | 27-28        |
| finance, provisions of Constitution...     | 375-376  | attitude during American Civil War...      | 19-23        |
| foreign relations under Constitution...    | 373      | attitude during Spanish-American War..     | 26           |
| fortifications, peace treaty provisions..  | 452      | diplomatic relations with United States,   |              |
| friction with Brazil, causes.....          | 236-237  | bibliography.....                          | 29-30        |
|                                            |          | effect of American Revolution on British   |              |
|                                            |          | politics.....                              | 5-6          |



	PAGE		PAGE
Great Britain—Continued.		International Labor Office:	
effect of slavery on relations with United States.....	16-18	duties.....	161-162
fear of American democracy.....	14-16, 18	Labor Commission's report to Peace Conference.....	286
growth of democracy.....	4-6, 8-9, 10, 24	peace treaty provisions—	
labor and the government in the war.....	278-279	official summary.....	473-474
navy, relation to United States.....	41-44	text.....	312-314
opinions of America.....	10-12	International Trade Union Conference,	
Panama Canal controversy with U. S....	26	Bern, 1919, labor charter.....	325-329
political reaction, 1844.....	14	Irigoyen, Hipolito, attitude toward Ger-	
political situation in 1776.....	3-5	many.....	254-255
position in War of 1812.....	7-9	Italy, see Allied Powers.	
public opinion toward America in 1776..	4-5		
reform bill of 1832.....	10	Japan:	
relations with U. S., 1815-44.....	9-10	Chengchia Tun negotiations, 1916-17	204-207
relations with U. S., 1867-1918.....	25-26	demands on China, 1915... 176-178, 192-195	
traditional attitude of U. S. toward.....	2	demands on China, 1915, agreed to... 178	
see also Allied Powers.		demands on China, 1916-18..... 178-180	
“Great Britain, America, and democracy,”		exchange of notes with China regarding—	
by Ephraim D. Adams.....	1-28	employment of advisers in South	
Great War, see World War.		Manchuria.....	202
Guatemala, attitude toward the war.....	262	Fukien question.....	203-204
		Han-yeh-ping Company.....	202-203
Hague Peace Conference, League of Na-		Manchurian railways.....	210
tions Assembly successor to.....	117	mines in South Manchuria.....	200-201
Haiti, attitude toward the war.....	262	railroad leases in Manchuria.....	198
Han-yeh-ping Company, Chino-Japanese		railways and taxes in Manchuria and	
negotiations.....	194, 202-203	Mongolia.....	201-202
Hankow, China, German concession abro-		Shantung.....	197, 210-212
gated.....	448	South Manchuria and eastern Inner	
Hay, John, note on open door in China,		Mongolia.....	199
1899.....	217-218	Lansing-Ishii exchange of notes... 178-179, 190	
Helgoland, peace treaty provisions.....	446	military agreement with China, May	
Honduras, attitude toward the war.....	262	25, 1918.....	207-209
		policy in China.....	174-176
Industrial property, see Patents.		policy in China, statement of Viscount	
International arbitration, see Arbitration.		Uchida.....	212-213
International Association for Labor Legis-		power in China.....	180-181
lation:		treaties with China regarding—	
organization.....	271	Shantung.....	195-197
publications.....	274	South Manchuria and eastern Inner	
work of 5th congress, 1908.....	272	Mongolia.....	198-200
International Justice, Court of, see Court		treaty with Russia regarding China,	
of International Justice.		July 3, 1916.....	214-215
International Labor Conference:		war claims, understanding among Allies	
discussed by George W. Wickersham	161-162,	219-223	
first meeting—	163-164	see also Allied Powers.	
circular of Organizing Committee. 338-341		Jefferson, Thomas, warning against en-	
provisions of treaty.....	321, 322	tangling alliances.....	53
provisions of treaty, summary.....	474	Kiaochow:	
resolution of U. S. Congress.....	342	convention between Germany and China	225
U. S. State Department circular.....	342	German peace treaty provisions—	
Labor Commission's report to Peace		official summary.....	449-450
Conference.....	284-285	text.....	224-225
peace treaty provisions—		restoration of—	
official summary.....	473, 474	exchange of notes.....	196
text.....	311-312	statement of Viscount Uchida.....	213
International Labor Conference, Bern,		Kiel Canal, German peace treaty provisions	473
1905.....	272	Koran, text to be restored by Germany... 461	
International Labor Conference, Bern,			
1913.....	272-273	Labor:	
International Labor Conference, Bern,		charter adopted by Bern conference.	
1917.....	278	1919.....	325-329
International Labor Conference, Leeds,		effect of war on protective agreements... 274	
1916.....	276-277	international conferences—	
International Labor Legislation Commis-		before the war.....	271-273
sion, see Labor Commission of		participation of organized labor... 273-274	
Peace Conference.		international guaranties—	
		adopted by Peace Conference..... 297-299	
		discussed by George W. Wickersham	
		162-163	

	PAGE		PAGE
Labor—Continued.		League of Nations—Continued.	
international guaranties—continued.		amendments to covenant—	
9 principles in peace treaty, summary.....	474-475	discussed by A. Lawrence Lowell. 164-166	
9 principles in peace treaty, text.....	323	provisions as adopted by Peace Conference.....	61
proposed by Labor Commission of Peace Conference.....	293-297	provisions as given in draft of Feb. 14, 1919.....	416
peace treaty provisions for—		provisions as given in summary of treaty.....	438
discussed by George W. Wickersham	161-162	arbitration provisions of covenant—	
exchanges of notes with German Delegation.....	324-337	as adopted by Peace Conference..	482-483
official summary.....	473-475	as given in draft of Feb. 14, 1919..	408-409
text.....	310-323	as given in summary of treaty.....	436
protection under League of Nations covenant—		discussed by A. Lawrence Lowell..	133-135
discussed by George W. Wickersham	160-161	discussed by George W. Wickersham	143-146
provisions as adopted by Peace Conference.....	414, 438, 489	Assembly (Body of Delegates)—	
provisions as given in summary of treaty.....	438	functions.....	77, 106, 116-118
provisions of draft of Feb. 14, 1919..	414	provisions as given in summary of treaty.....	435
provisions of German Constitution, 1919	394-396	provisions of covenant as adopted by Peace Conference.....	478
recognition in peace treaty—		provisions of draft of Feb. 14, 1919..	404
American proposal, 1914.....	274-276	attitude of Theodore Roosevelt....	50, 51-52
American proposal adopted, 1916....	276	automatic action explained.....	121-122
Bern conference resolutions.....	278	chances of war under article X.....	128-133
Leeds conference resolutions.....	276-277	constitutionality of covenant. 85-88, 111-113	
report of Labor Commission of Peace Conference.....	283-292, 295-296	Council—	
war relations with governments.....	278-279	functions.....	74-76, 77, 105-106, 118-120
Labor Commission of Peace Conference:		provisions as given in summary of treaty.....	435-436
appointment.....	280-281	provisions of covenant as adopted by Peace Conference.....	478-479
British plan basis of work.....	283	provisions of draft of Feb. 14, 1919. 404-405	
labor guaranties adopted.. 162-163, 293-299		covenant of League—	
members.....	281-282	as adopted by Peace Conference,	
report.....	283-292, 295-296	April 28, 1919.....	477-492
report adopted by Conference.....	300-309	draft of Feb. 14, 1919, criticisms of Senator Lodge.....	55-63
Labor Conference, International, see International Labor Conference.		draft of Feb. 14, 1919, criticisms of A. Lawrence Lowell.....	67-69
"Labor in the treaty of peace".....	271-342	draft of Feb. 14, 1919, text.....	403-416
Labor Legislation, International Association for, see International Association for Labor Legislation.		official summary.....	434-438
Labor Office, International, see International Labor Office.		debate of Henry Cabot Lodge and A. Lawrence Lowell.....	49-97
Latin America:		disputes not submitted to arbitration—	
attitude regarding the war.....	228-232	discussed by A. Lawrence Lowell..	136-138
bibliography on Latin America and the war.....	267-268	provisions as given in summary of treaty.....	436
clerical pro-Germanism.....	231-232	provisions of covenant as adopted by Peace Conference.....	484-485
distrust of United States.....	232	provisions of draft of Feb. 14, 1919 409-411	
effects of the war on.....	265-266	disputes with non-members—	
German propaganda in.....	230-231	discussed by A. Lawrence Lowell..	140-142
indignation over German war methods..	229	provisions of covenant as adopted by Peace Conference.....	486
relations with United States.....	265-267	provisions of draft of Feb. 14, 1919..	412
response to appeal for League of Nations	266	duties with respect to terms of peace treaty.....	434-435
sympathy for France.....	229	essentials of effective league.....	65-67
"Latin America and the war," by Percy Alvin Martin.....	227-267	existing treaties in relation to covenant—	
Latourette, Kenneth Scott, article on "China, the U. S. and the war" 167-191		discussed by A. Lawrence Lowell..	142-143
League of Nations:		provisions as given in summary of treaty.....	437
action in case of war, article XI—		provisions of covenant as adopted by Peace Conference.....	487
discussed by A. Lawrence Lowell....	133	provisions of draft of Feb. 14, 1919. 415-416	
in covenant as adopted by Peace Conference.....	482	French commission on League.....	45-48
in draft of Feb. 14, 1919.....	408	guaranties against aggression, article X—	
		discussed by Senator Lodge.....	61-63
			70-71, 127-138

	PAGE
League of Nations—Continued.	
guaranties against aggression—continued.	
discussed by A. Lawrence Lowell....	70-71
discussed by Henry W. Taft.....	107-108
discussed by William H. Taft.....	127-133
in covenant as adopted by Peace	
Conference.....	482
in draft of Feb. 14, 1919.....	407-408
historical background.....	146-149
internal affairs of members to be ex-	
empted from jurisdiction.....	59-60, 82-83, 137-138, 484-485
international bureaus under—	
discussed by A. Lawrence Lowell....	156
provisions as given in summary of	
treaty.....	438
provisions of covenant as adopted by	
Peace Conference.....	490
provisions of draft of Feb. 14, 1919...	415
labor provisions of covenant—	
as adopted by Peace Conference.....	489
as given in summary of treaty.....	438
discussed by George W. Wickersham	160-161
letters on covenant.....	99-166
list of books on League.....	269-270
mandatory system—	
discussed by Senator Lodge.....	61
discussed by A. Lawrence Lowell, 76-77,	155
discussed by George W. Wickersham	157-160
disposition of former German colonies	488
provisions as given in summary of	
treaty.....	437
provisions of covenant as adopted by	
Peace Conference.....	487-489
provisions of draft of Feb. 14, 1919.	413-414
maps showing members, mandates, etc.	344, 345
membership, provisions for—	
discussed by A. Lawrence Lowell..	114-115
in covenant as adopted by Peace Con-	
ference.....	477
in draft of Feb. 14, 1919.....	406
in summary of treaty.....	435
Monroe doctrine in relation to—	
discussed by Senator Lodge.....	57-59
discussed by A. Lawrence Lowell....	83-85
discussed by Henry W. Taft.....	149-154
discussed by William H. Taft..	129, 131-132
provision as given in summary of	
treaty.....	437
provision of covenant as adopted by	
Peace Conference.....	487
nature of League.....	101-103
objects to be attained.....	99-101
obligations assumed by members.....	70-74, 115-116
organs of League.....	104-106
reduction of armaments—	
discussed by William H. Taft.....	123-127
provisions as given in summary of	
treaty.....	436
provisions of covenant as adopted by	
Peace Conference.....	481-482
provisions of draft of Feb. 14, 1919.	406-407
report presenting covenant to Peace	
Conference.....	403-432
response of Latin America to appeal for.	266
sanctions behind obligations—	
discussed by A. Lawrence Lowell..	71-73, 138-140

	PAGE
League of Nations—Continued.	
sanctions behind obligations—continued.	
provisions of covenant as adopted by	
Peace Conference.....	485-486
provisions of draft of Feb. 14, 1919..	411
seat of the League—	
discussed by A. Lawrence Lowell....	122
provisions of covenant as adopted by	
Peace Conference.....	481
secret treaties prohibited by covenant—	
discussed by A. Lawrence Lowell....	142
provisions as given in summary of treaty	437
provisions of covenant as adopted by	
Peace Conference.....	487
provisions of draft of Feb. 14, 1919..	415
Secretariat—	
discussed by A. Lawrence Lowell....	122
provisions as given in summary of	
treaty.....	435
provisions of covenant as adopted by	
Peace Conference.....	480
provisions of draft of Feb. 14, 1919.	405-406
social activities, article XXIII—	
discussed by A. Lawrence Lowell..	155-156
in covenant as adopted by Peace	
Conference.....	489-490
in summary of treaty.....	438
sovereignty of members.....	78-79, 106-111
voting rules—	
as given in covenant adopted by	
Peace Conference.....	479-480
as given in draft of Feb. 14, 1919....	405
as given in summary of treaty.....	436
discussed by A. Lawrence Lowell..	79-80, 117-118, 121
withdrawal, provisions for—	
discussed by A. Lawrence Lowell....	116
in covenant as adopted by Peace	
Conference.....	477
in summary of treaty.....	435
Leeds, England, labor conference, 1916,	
resolutions.....	276-277
Liberia, German peace treaty provisions..	448
Lodge, Henry Cabot, debate with A. Law-	
rence Lowell on League of Nations	
covenant.....	49-97
Louvain, Belgium, library, reparation for	
destruction.....	460
Lowell, A. Lawrence:	
debate with Henry C. Lodge on cove-	
nant of League of Nations.....	49-97
letters on covenant of League of Nations—	
amendments to covenant.....	164-166
articles XXII-XXV.....	154-156
Assembly, article III.....	116-118
basic principle, articles XI, XII and	
XIII.....	133-135
Council, article V.....	118-120
Court of International Justice, articles	
XIV and XV.....	135-138
members of League, articles I and II	114-116
nations outside League, articles XVII-	
XX.....	140-143
nature of League.....	101-103
object to be obtained.....	99-101
organs of League.....	104-106
sanctions behind obligations, article	
XVI.....	138-140
voting, procedure, secretariat, and	
immunities, articles V, VI and	
VII.....	121-122

	PAGE		PAGE
Luxburg, Count, notes regarding Argentine ships.....	252-253	Monroe doctrine:	
Luxemburg, German peace treaty provisions.....	439-440	relation to League of Nations—	
		discussed by Senator Lodge.....	57-59
		discussed by A. Lawrence Lowell....	83-85
		discussed by Henry W. Taft.....	149-154
		discussed by William H. Taft .129, 131-132	
		provision as given in summary of treaty.....	437
		provision of covenant as adopted by Peace Conference.....	487
Makino, Baron, remarks on presentation to League of Nations.....	432	Morocco, German peace treaty provisions.....	448-449
Malmédy, change of sovereignty.....	439	Moselle River, German peace treaty provisions.....	470-471
Manchuria:		Navies, see Armaments.	
Chino-Japanese treaty regarding....	198-200	Niemen River, declared international.....	470
employment of advisers—		Oder River, declared international.....	470
Chino-Japanese notes.....	202	Okwawa, Sultan, skull, to be restored by Germany.....	461
Japan's demands upon China, Jan. 18, 1915.....	193	Opium, German peace treaty provisions..	468
Japanese demands following Chengchia Tun dispute.....	204-206	Orlando, Vittorio, remarks on presentation to Peace Conference of covenant of League of Nations.....	424-426
Japanese subjects in—		Pan American Conference, League of Nations Assembly analogous to.....	118
Chino-Japanese treaty.....	198-199	Pan Americanism:	
Japan's demands upon China, Jan. 18, 1915.....	193	influence on war attitude of Latin America.....	230
mines—		strengthened by the war.....	265-266
Chino-Japanese notes.....	200-201	Panama, attitude toward the war.....	261-262
Japan's demands upon China, Jan. 18, 1915.....	193	Panama Canal, Anglo-American relations in connection with.....	26
railroad leases—		Paris, Conference of, 1919, see Peace Conference, Paris, 1919.	
Chino-Japanese notes.....	198	Patents, German peace treaty provisions..	468
Chino-Japanese treaty.....	198	Peace Conference, Paris, 1919:	
Japan's demands upon China, Jan. 18, 1915.....	193	Chinese delegates, instructions to....	209-210
railroads—		Labor Commission report adopted... 300-309	
Chino-Japanese notes.....	201-202, 210	labor guaranties adopted.....	297-299
Chino-Japanese treaty.....	200	notes exchanged with German Delegation on labor provisions.....	324-337
Japan's demands upon China, Jan. 18, 1915.....	193, 194	report on League of Nations presented resolution providing for a committee on League of Nations.....	403-432
taxation—		understanding among Allies regarding support of war claims to be presented to.....	219-223
Chino-Japanese notes.....	199, 201-202	see also Labor Commission of Peace Conference.	
Japan's demands upon China, Jan. 18, 1915.....	193-194	Peace treaty with Germany, see Versailles, Treaty of, June 28, 1919.	
Mandatory system:		Peru, attitude toward the war.....	258-259
discussed by Senator Lodge.....	61	Poland, German peace treaty provisions..	443
discussed by A. Lawrence Lowell.....	76-77, 155	Posen, cession to Poland.....	443
discussed by George W. Wickersham. 157-160		Prisoners of war, German peace treaty provisions.....	454-455
disposition of former German colonies... 488		Prussia, see East Prussia—West Prussia.	
provisions of League covenant—		Railroads:	
as adopted by Peace Conference... 487-489		in Manchuria—	
in draft of Feb. 14, 1919.....	413-414	Chino-Japanese notes.....	201-202, 210
in summary of treaty.....	437	Chino-Japanese treaty.....	198, 200
Martin, Percy Alvin, article on "Latin America and the war".....	227-267	in Shantung—	
Mexico, attitude regarding the war....	263-264	Chino-Japanese notes.....	210-211
Militarism, see Armaments.		German-Chinese convention.....	226
Military graves, German peace treaty provisions.....	455	provisions of German Constitution, 1919.....	376-378
Mines:		provisions of German peace treaty... 469, 472	
in South Manchuria—			
Chino-Japanese notes.....	200-201		
Japan's demands upon China, Jan. 18, 1915.....	193		
Moldau River, see Vltava River.			
Mongolia:			
articles in Japan's note to China, Jan. 18, 1915.....	193-194		
Chino-Japanese treaty regarding eastern Inner Mongolia.....	198-200		
Japanese demands following Chengchia Tun dispute.....	204-206		
taxation, Chino-Japanese notes.....	199, 201-202		



	PAGE		PAGE
Red Cross, provisions of covenant of League of Nations.....	156, 490	Submarine warfare—Continued.	
Reparation Commission, established by peace treaty with Germany.....	457	Luxburg notes regarding Argentine ships	252-255
Revolution, American, see American Revolution.		Supreme Council, union of Austria with Germany prohibited by.....	368-369
Rhine River, German peace treaty provisions.....	470-471	Taft, Henry W.:	
Rhine territory:		letters on covenant of League of Nations—	
no armed German forces permitted in..	440	constitutionality.....	111-113
occupation by Allies.....	475	Monroe doctrine.....	140-154
Rivers, international, German peace treaty provisions.....	470	sovereignty.....	106-111
Roosevelt, Theodore, attitude toward League of Nations.....	50, 51-52	Taft, William H.:	
Russell, Benjamin, letters on Anglo-American relations.....	31-44	letters on covenant of League of Nations—	
Russia:		chances of war remote, article X..	130-133
German peace treaty provisions.....	446	principle we fought for, article X..	127-129
treaty with Japan regarding China, July 3, 1916.....	214-215	reciprocal concessions, article VIII	125-127
see also Allied Powers.		reduction of armaments, article VIII	123-125
Saar Valley, German peace treaty provisions.....	440-442	Tientsin, China, German concession abrogated.....	448
Salvador, attitude toward the war.....	262	Trade Union Conference, International, see International Trade Union Conference.	
Schools, see Education.		Treaties:	
Shantung:		Chino-German convention regarding Shantung, 1898.....	225-226
administration, Chino-Japanese notes	211-212	Chino-Japanese negotiations, 1915-18	192-212
Chino-Japanese treaty regarding disposal of German rights—	195-197	Chino-Japanese treaty regarding Manchuria and Mongolia.....	198-200
Chino-Japanese treaty.....	196	existing treaties with Germany, peace treaty provisions.....	464-465
Japan's demands upon China, Jan. 18, 1915.....	192	imposing international obligations upon United States.....	86-87, 109-110
peace treaty provisions.....	224-225	relation of existing treaties to League of Nations covenant—	
peace treaty provisions, summary.	449-450	discussed by A. Lawrence Lowell..	142-143
understanding among Allies.....	219-223	provisions as given in summary of treaty.....	437
leases of territory—		provisions of covenant as adopted by Peace Conference.....	487
Chino-Japanese notes.....	197	provisions of draft of Feb. 14, 1919.	415-416
Japan's demands upon China, Jan. 18, 1915.....	192-193	Russo-Japanese treaty respecting China, 1916.....	214-215
ports—		secret, prohibited by League of Nations covenant—	
Chino-Japanese notes.....	197	discussed by A. Lawrence Lowell.....	142
Chino-Japanese treaty.....	196-197	provisions as given in summary of treaty.....	437
Japan's demands upon China, Jan. 18, 1915.....	193	provisions of covenant as adopted by Peace Conference.....	487
railroads—		provisions of draft of Feb. 14, 1919.	415
Chino-German convention.....	226	Treaty of peace with Germany, see Versailles, Treaty of, June 28, 1919.	
Chino-Japanese notes.....	210-211	Turkey, German peace treaty provisions..	449
Chino-Japanese treaty.....	196	Uchida, Viscount, statement of Japan's policy in China.....	212-213
Japan's demands upon China, Jan. 18, 1915.....	193	United States:	
Shipping, German peace treaty provisions	459, 463	advises China to join Allies.....	199
Siam, German peace treaty provisions....	448	appreciation of Great Britain.....	27-28
Silesia, portion of Upper Silesia ceded to Poland.....	443	backwardness in entering the war.....	1
Slavery:		British fear of American democracy.	14-16, 18
effect on British-American relations...	17-18	British opinions of America.....	10-12
slave trade cause of British-American disagreements.....	16-17	British sea power in relation to Civil War—	41-44
Society of Nations, see League of Nations.		British attitude during.....	19-21
Soldiers' graves, see Military graves.		British attitude misunderstood.....	23-25
South America, see Latin America.			
Spanish American War of 1898, attitude of Great Britain.....	26		
Submarine warfare:			
attitude of Chile.....	258		
Brazilian indignation aroused by... 234, 235, 237, 238, 240			



	PAGE		PAGE
United States—Continued.		War—Continued.	
Constitution in relation to League of Nations covenant.....	85-88, 111-113	League of Nations necessary for prevention.....	90
declaration of war against Germany approved by Argentina.....	251	War of 1812, British position.....	7-9
development and international relations, 1844.....	13-14	War of 1898, see Spanish American War of 1898.	
diplomatic relations with Great Britain, bibliography.....	29-30	War of 1914, see World War.	
distrust felt by Latin-American countries for.....	232	War of Secession (U. S.), see Civil War (U. S.).	
effect of slavery on relations with Great Britain.....	16-18	War of the American Revolution, see American Revolution.	
international obligations assumed under existing treaties.....	86-87, 109-110	Washington, George, warning against permanent alliances.....	53, 80-81
labor and the government in the war....	279	Waterways:	
Lansing-Ishii exchange of notes. 178-179, 190		provisions of German Constitution, 1919.....	378-380
loyalty of Cuba to.....	249	provisions of German peace treaty.....	469
Panama Canal controversy with Great Britain.....	26	West Prussia, cession to Poland.....	443
policy in China... 188-190, 190-191, 217-219		Wickersham, George W.:	
relations with Great Britain, 1815-44... 9-10		letters on covenant of League of Nations—	
relations with Great Britain, 1867-1918 25-26		arbitration.....	143-146
relations with Latin America.....	265-267	colonial mandates.....	157-160
Revolutionary War—		historical background.....	146-149
effect on British politics.....	5-6	labor, article XXIII.....	160-164
new views of history.....	31-40	Wilson, Woodrow, report to Peace Conference on League of Nations... 403-422	
public opinion in Great Britain during.....	4-5	World War:	
traditional attitude toward Great Britain.....	2	Argentina's reasons for neutrality.....	251
traditional friendship with Brazil....	238-240	attitude of Argentina.....	249-250
War of 1812, British position in.....	7-9	attitude of Bolivia.....	259
War of 1898, British attitude during... 26		attitude of Central America.....	261-262
warnings against entangling alliances... 53, 80-81		attitude of Chile.....	255-258
Upper Silesia, see Silesia.		attitude of Ecuador.....	259
Uruguay, attitude toward the war.....	259-261	attitude of Latin-American countries. 228-232	
Vandervelde, Emile, remarks before Peace Conference on labor convention. 306-307		attitude of Mexico.....	263-264
Venezuelan boundary dispute, settled by arbitration.....	25-26	attitude of Peru.....	258-259
Versailles, Treaty of, June 28, 1919:		attitude of Uruguay.....	259-261
execution of provisions.....	452	backwardness of United States in entering the war.....	1
guaranties for execution.....	475	casualties.....	343
"labor in the treaty of peace".....	271-342	China advised by United States to join Allies.....	190
labor section—		China's inactivity, Allied note protesting against.....	215-217
exchanges of notes with German Delegation.....	324-337	China's part in the war.....	185-186
text.....	310-323	devastated areas to be restored by Germany.....	459
official summary.....	433-476	economic effects on Brazil.....	234
Shantung sections.....	224-225	effect on labor protective agreements... 274	
when effective.....	476	effect on Latin America.....	265-266
Vltava River, declared international.....	470	effect on political conditions in China 182-185	
War:		food problem—	
chances of war under article X of League covenant.....	128-133	aid of Brazil.....	244-245
essentials of league to prevent.....	65-67	aid of Cuba.....	248-249
		labor and government.....	278-279
		participation of Brazil.....	243-244
		participation of Cuba.....	247-249
		responsibility of Germany fixed by peace treaty.....	455-456